

INSTITUTIONAL CONTROL OF NCAA DIVISION I (FBS) ATHLETICS: AN
INVESTIGATION OF ECONOMIC AND ADMINISTRATIVE INFLUENCES OF
NCAA RECRUITING INFRACTIONS

A Dissertation

by

ROBERT SMITH CLARK, JR.

Submitted to the Office of Graduate Studies of
Texas A&M University
in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

May 2010

Major Subject: Kinesiology

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May 2010

Major Subject: Kinesiology

ABSTRACT

Institutional Control of NCAA Division I (FBS) Athletics: An Investigation of Economic and Administrative Influences of NCAA Recruiting Infractions. (May 2010)

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Chair of Advisory Committee: Dr. Paul J. Batista

Recruiting talented student-athletes is integral to the success of an athletics program. Yet, some universities and individuals therein have been willing to violate National Collegiate Athletic Association (NCAA) recruiting regulations to lure talented athletes to play at their institution. Institutional and isomorphic pressures of discouraging unethical recruiting behavior and practice rely heavily upon the rationalization and institutionalizing of social phenomena through written policy in *NCAA Bylaw 13*. These policies may be identified as cartel agreements, where a group creates rules to control actions that assure economic profit. Although recruiting top talent may lead to increased victories and revenues, most NCAA athletic departments do not make a profit and being sanctioned for violating NCAA recruiting rules may lead to damaged institutional reputation. In response, universities have invested resources to protect institutional prestige through a comprehensive NCAA rules compliance program. Nevertheless, undisclosed recruiting violations transpire because there are financial incentives to violate NCAA rules.

Three separate works were utilized to examine the economic, institutional, and individual factors of NCAA institutional control. First, institutional factors of reported NCAA recruiting violations were analyzed through a series of chi-square tests. Correlative institutional factors were found in particular types of *Bylaw 13* violations including conference affiliation, geographic region, sports involved in a major infraction, and size of full-time athletic compliance staff when the violation occurred. Second, hierarchical loglinear regression was used to analyze the results from a survey of 7,200 current student-athletes regarding undisclosed recruiting violations. Various violation types of *Bylaw 13* correlatively involved institutions from Bowl Championship Series (BCS) conferences, based on geographic regions, revenue sports, and individual factors of race, sex, and income level. Third, a qualitative instrumental case study examined the economic, administrative, and individual relationships regarding NCAA institutional control of athletics recruiting at a perceivably compliant Division I (FBS), BCS conference-affiliated institution. Findings from this study suggested that the systemic pressure to win championships and maintain institutional control become difficult to balance with the added pressure of high stakes recruiting that can influence the financial stability of an athletic department. The conclusion of this work will assess systemic alternatives regarding NCAA recruiting violations and propose legal remedies to curtail future recruiting violations.

DEDICATION

This work is dedicated to Emily, Anne, and our future little ones. Don't let anyone tell you that you can't achieve your goals. If you just do your absolute best, the Lord will take care of the rest.

ACKNOWLEDGEMENTS

I would like to thank my committee chair, Dr. Batista, and my former co-committee chair, Dr. Sagas, for providing me with the opportunity to successfully complete this work. I also thank my committee members, Dr. Torres and Dr. Singer, for their guidance throughout the course of this research and Dr. Hudson for his friendship and opportunities given to me in the Laboratory for the Study of Intercollegiate Athletics (LSIA).

My gratitude is also extended to my colleagues in the athletic department who have made my time at Texas A&M University a wonderful experience.

I greatly appreciate all of the love and support from family and friends. In particular, I thank my mother and father for their constant love and support, and teaching me that sports can be a major part of life, but not be life itself.

Finally, my deepest thanks I give to my wife, Emily, for the sacrifices she made for me to follow my dreams. This would have been impossible without her endurance, patience, forgiveness, and infinite love she has shown for me over the last several years. I cannot thank her enough for it, so I will have to keep showing my gratitude somehow.

NOMENCLATURE

| | |
|--------|--|
| NCAA | National Collegiate Athletic Association |
| FBS | Football Bowl Subdivision |
| BCS | Bowl Championship Series |
| ACC | Atlantic Coast Conference |
| Pac 10 | Pacific 10 Conference |
| SEC | Southeastern Conference |
| WAC | Western Athletic Conference |

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CHAPTER I

INTRODUCTION: THE IMPORTANCE OF THE PROBLEM

“An anonymous source has notified ESPN that State University is under NCAA investigation for violations that occurred while recruiting a player.” Does this sound familiar? Similar reports to this hypothetical situation resound as allegations of wrongdoing quickly circulate through various media channels and into the homes of people across the United States. Instantly, the integrity of the institution and individuals involved with the allegations is questioned by people ranging from college athletics media “experts” to the average fans discussing the allegations on their lunch break. In one such situation, ESPN columnist Pat Forde asserted that a university “should be *crushed* by the NCAA, the Pacific 10, and its own administration” (Forde, 2009) prior to a complete investigation by the NCAA of alleged violations by the university’s football and men’s basketball programs. Thus, the integrity of an entire university may become impugned by such accusations, while some other institutions are held up as model institutions that win championships without accusations of violating NCAA rules. Although the accusation and/or violation of NCAA rules can lead to negative publicity of a university and can compromise the achievements of athletics programs, NCAA rules are not the law.

According to the United States Supreme Court in *NCAA v. Tarkanian* (1988),

This dissertation follows the style of the *Journal of Intercollegiate Sport*.

the NCAA rules are not legally binding because the NCAA is not a “state actor” bound by all constitutional duties of a government entity. State action occurs when individual constitutional rights are violated by a government entity or persons with governmental authority (*Burton v. Wilmington Parking Authority, 1961*). The issue of whether or not the NCAA functions as a state actor was raised by former UNLV basketball coach Jerry Tarkanian after he was suspended, faced a significant demotion and pay cut after being caught committing multiple NCAA recruiting violations. The Court reasoned that the NCAA is a voluntary association of universities and that any one of its member institutions could withdraw membership if it so desired. Also, the Court held that NCAA rules did not necessarily constitute state law because the “source of the rules adopted by the NCAA is not [the state], but the collective membership, the vast majority of which was located in other States.” Thus, the adoption and enforcement of NCAA rules does “not transform them into state rules, and the NCAA into a state actor, since [the University] retains plenary power to withdraw from the NCAA and to establish its own standards.” Are you sure this is a correct quote because Universities/its is not correct syntax Therefore, the establishment of NCAA rules does not constitute law, but the NCAA’s legitimacy has become so influential and institutionalized that it has taken upon itself the aura of legality. Meyer & Rowan (1988) refer to this process of legitimizing an aura of legality as the “Myth of Rationality” (p.131). Through these means, NCAA violations have become the quintessential monikers identifying which member institutions are charlatans.

The primary basis to the definition of NCAA rules is the recruitment of prospective student-athletes. Two levels of severity exist for NCAA rules violations. There are major infractions, which are more severe in nature and “provide an extensive recruiting advantage” (*NCAA Bylaw 19.02.2.2*), and secondary infractions, which are less severe in nature and “provide a minimal recruiting advantage” (*NCAA Bylaw 19.02.2.1*). However, multiple secondary violations may constitute a major violation (*NCAA Bylaw 19.02.2.1*). Consequently, the severity of the penalties proscribed to an institution for violating NCAA rules depends upon the level of competitive advantage gained by the university found in violation of the recruiting rules. Furthermore, it is the recruiting process that has led researchers to find that NCAA member universities act as a classic economic cartel by controlling inputs into college athletics to maximize profits and control action through established mandates (Fleisher, Goff, & Tollison, 1992; Kahn, 2006; Grant, Ledy, & Zygmunt, 2008). Therefore, any thorough research regarding NCAA governance must address the issues of the recruitment of student-athletes.

Recruiting is the process of attracting new players to infuse a particular sport with needed talent to win championships (Dumond, Lynch, & Platania, 2008). The recruiting process typically begins by university coaches identifying the positional or talent needs of their particular sport, then seeking to address the needs by finding, evaluating, and getting prospects to commit to play at the university. These players can be found locally, regionally, nationally, and sometimes internationally. Once talented student-athletes are identified, certain coaches (who have passed an NCAA certification

exam) will begin to gauge the prospective student-athletes' interest by making contact through postal mail, electronic mail and/or telephone calls. For most prospective student-athletes, this process will begin well before their senior-year in high school. If continued mutual interest occurs, the contact with the prospect will continue and the evaluation process is initiated. Coaches evaluate prospects through multiple means such as reviewing game film of the prospect, attending the prospects' competitions, and attendance at a summer camp or clinic on the university campus. When the interest of the prospect and coaches is mutually heightened, a prospect will visit the university campus. These campus visits are either official visits (where the university pays for the prospects' travel, food, lodging, and entertainment) or unofficial visits (where the prospect pays for the costs of the visit). Sometime during this process, the prospect is offered a one-year scholarship which promises that the university will pay for his or her cost of attendance (including tuition, room, board, and books) in exchange for playing the sport at the university. If the prospect agrees, he or she will sign a contract, known as the National Letter of Intent (NLI), agreeing to follow NCAA eligibility standards in return for the scholarship offer. Alternatively, prospects not offered a scholarship are asked to "walk on" by receiving no financial assistance, but having the opportunity to compete for a future scholarship as a member of the team.

The recruiting process is extremely competitive because the benefits of effective recruiting are tangible and hundreds of universities, including archrivals, may pursue the same prospect simultaneously. Because "athletes are the most essential human resource involved in the production of intercollegiate athletics" (Chelladurai & Reimer, 1997,

p.134; Cunningham & Dixon, 2003), their performance can lead to increased winning percentages and revenue through ticket sales and postseason or bowl game appearances (Humphreys & Ruseski, 2006). Additionally, Brown (2001) found that recruiting an elite college football player can increase marginal revenues of an athletic department by as much as \$500,000 annually. Many universities with the top ranked recruiting classes have been found to win championships or have Top 10 finishes in college football (Croley, 2008). Recruiting can also have a major impact on the employment status of a coach because it is one measure of coaching success (Cunningham & Dixon, 2003). Simply put, “recruiting is the lifeblood of the program” (O’Neil, 2008), which can lead to the success or demise of the athletics program and its coaches.

The demand for successful recruiting has caused coaches to become increasingly more creative in the recruiting process. For example, coaches may utilize the latest technology such as Twitter or Facebook to contact prospects, or utilize video conferencing as a means of personalizing a telephone call to prospects. From time to time, this creativity may enter into the realm of questionable recruiting practices that may be overly demanding to the time, financial resources, and educational pursuits of the prospective student-athlete (*NCAA Bylaw 6.3*). In order to prevent these questionable practices, the NCAA has adopted specific rules to address recruiting practices.

Prior to analyzing recruiting rules, it is critical to identify and describe the parties involved in the recruiting process. The two key parties present in recruiting are the prospect and coach. Prospective student-athletes, or prospects, are students that have entered the ninth grade, or seventh grade in basketball (*NCAA Bylaw 13.02.11*). A

recruited prospective student-athlete is no longer considered a prospect when he or she: a) registers, enrolls, and attends class, b) practices with the team, or c) registers, enrolls, and attends summer classes at the university. The coaches are the instigators of the entire recruiting process because they: a) identify which athletes to recruit, b) the modalities and methods of recruitment used to entice a prospect, c) contact and evaluate the talent of the prospect, and d) ultimately decide whether or not a prospect will come to the campus. There are coaching limitations established by the NCAA as to what individuals can recruit. *NCAA Bylaw 11.7.4* establishes how many coaches can recruit on or off-campus according to the type of sport. These limitations influence the role of the institutional staff members in the recruiting process. Tangential roles of institutional staff and boosters also influence the recruiting process. Institutional staff members include: the university president, director of athletics, university administrators, athletic administrators, professors, and university staff members. While it is permissible for institutional staff members to talk to prospects in certain situations, the recruiting role of institutional staff is supportive of the coaches and to ensure that the recruiting process is compliant with NCAA rules. Boosters, or representatives of athletic interest, are any individuals that promote, have graduated from, donate to, assist in recruiting prospects to, or provide benefits to student-athletes at a university (*NCAA Bylaw 6.4.2*). Boosters are not technically permitted to recruit, but the vast number of alumni and donors throughout the world make boosters an excellent resource for recruiting. However, boosters have been central to major recruiting violations at many universities including

Oklahoma, Ohio State, Florida, UNLV, and SMU. Specific NCAA regulations seek to control the actions of all parties involved in the recruiting process.

NCAA Bylaw 13 regulates the modality, materials, location, frequency, and incentives that are utilized in the recruiting process for coaches, institutional staff, representatives of athletic interest (known as boosters), student-athletes (currently competing at the institution), and prospective student-athletes. Specifically, Article 13 regulates the actions of the aforementioned stakeholders concerning contacts and evaluations of prospects (*Bylaw 13.1*), offers of cash or gift inducements to prospects (*Bylaw 13.2*), minimum admissions standards (*Bylaw 13.3*), methods, types, and size of recruiting materials sent to prospects (*Bylaw 13.4*), transportation (*Bylaw 13.5*), official and unofficial visits to the campus (*Bylaw 13.6 & 13.7*), types of entertainment (*Bylaw 13.8*), National Letter of Intent (NLI) and financial aid contractual agreements between the institution and the prospect (*Bylaw 13.9*), publicity of recruitment to the media (*Bylaw 13.10*), tryout limitations for prospects (*Bylaw 13.11*), institutional summer camps and clinics (*Bylaw 13.12*), restrictions on high school all-star games (*Bylaw 13.13*), institutional use of recruiting funds (*Bylaw 13.14*), and institutional use of pre-college expenses (*Bylaw 13.15*). These recruiting mandates consist of approximately 50 pages of text and are exhaustive in nature, which can oftentimes be confusing for stakeholders to comprehend. To clarify the intent and application of these rules, each NCAA member institution employs compliance officers on its campus to educate, monitor, and ensure compliance with NCAA mandated bylaws. Yet, the presence of

compliance personnel does not necessarily lead to complete compliance with recruiting mandates.

Recruiting violations are the most prevalent major violations that occur in the highest level of NCAA competition, Division I Football Bowl Subdivision (FBS). Over 73% of all reported major violations that occurred in NCAA Division I (FBS) athletics programs were related to the recruitment of prospective student-athletes stipulated in Article 13 of NCAA legislation (Clark & Batista, 2009a). Also, recruiting violations account for 47.03% of all reported secondary violations (Clark & Batista, 2009a), suggesting that recruiting violations are considered much more serious types of violations than most other NCAA mandates. Factors that influence reported major violations of Article 13 are Bowl Championship Series (BCS) conference affiliation, the Southern and Midwestern geographical regions, male sports, and the revenue sports of football and men's basketball. Nevertheless, there is a belief that more violations occur without the knowledge of the NCAA (Sack, 1991).

There has been minimal research of the extent to which recruiting violations have occurred without the knowledge of the NCAA. Sack (1991) found that the underground economy of paying student-athletes and recruits "under the table" is extensive in NCAA football. On the institutional level, Sack (1991) found that African-American football players from a low socio-economic status and major football conferences located in the South were more likely to accept impermissible recruiting inducements and extra benefits. However, this study has considerable limitations regarding its generalizability to the entire population of NCAA Division I (FBS) student-athletes. Sack (1991)

sampled only former football student-athletes that eventually played in the National Football League (NFL), thereby surveying less than 1% of the total NCAA Division I (FBS) student-athlete population. Therefore, the extent to which unreported recruiting violations are occurring in NCAA Division I (FBS) athletics, without the knowledge of the NCAA, is relatively unknown. This dissertation will utilize Bowen's Cost Theory of Revenue, the cartel behavior of the NCAA and higher education institutions, and the myth of rationality (Meyer & Rowan, 1988) in analyzing institutional control of reported and unreported recruiting infractions.

If reported or unreported violations are discovered by the NCAA Committee on Infractions or the media, considerable damage to the prestige of an institution can occur. Bowen's Cost Theory of Revenue (1980) found that universities aspire to prestige manifested by educational excellence, reputation for integrity, and institutional success, but are willing to expend all revenues generated to reach this prestigious ambition. Thus, each institution generates as much revenue as possible and expends all of these revenues with the cumulative effect being increased fiscal inefficiency (Bowen, 1980). While the NCAA and institutions of higher education have been found to act like cartels that seek to maximize profits (Fleisher, Goff, & Tollison, 1992; Kahn, 2006; Grant, Leady, Zygmunt, 2008), universities also seek to obtain prestige through increasing revenues in order to spend them all (Bowen, 1980). Therefore, NCAA member institutions are fixed on a divergent path between cartel behaviors seeking to maximize profits, and spending all of the money raised to pursue institutional prestige by winning championships. This creates a tenuous relationship between intercollegiate athletics' pursuit of championships

and the educational institution's pursuit of academic prestige which collide on each campus of NCAA member institutions. The NCAA utilizes mandate policy instruments (McDonnell & Elmore, 1989) through rules and regulations to reconcile this tenuous relationship, but the unintended weaknesses of mandate policy (e.g. financial incentives to violating NCAA recruiting rules) can jeopardize the pursuit of prestige of the entire institution. Consequently, NCAA-affiliated universities accept cartel behavior in athletics by asserting institutional control in NCAA rules compliance while seeking to achieve heightened institutional prestige with a "win-at-all costs" mantra. By following the rules, but being willing to break them to win, a myth of rationality may exist within the NCAA member institutions.

To discern why recruiting violations occur and what factors can prevent future violations from occurring, the following work will examine NCAA recruiting violations in three separate articles. The first article will examine reported major and secondary NCAA recruiting violations. Moreover, this study will investigate: a) the commitment of human resources to rules compliance, b) the impact of compliance personnel presence on the various types of recruiting violations, and c) institutional factors of typologies established in reported recruiting violations of NCAA Article 13. The second article will examine unreported recruiting violations, expanding the sample from Sack (1991) to all NCAA Division I (FBS) sports. Also, this study will investigate: a) the extent to which unreported violations occur within a population sample of prospective student-athletes, b) what types of unreported recruiting violations are occurring, and c) institutional and individual factors of unreported recruiting violations. The purpose of the third study is

to examine the institutional and individual factors that lead to institutional control of NCAA recruiting at a Bowl Championship Series (BCS) affiliated conference institution of higher education. The cumulative analysis of the findings in the studies will be discussed in the final chapter of this dissertation. The purpose of this work is to identify why various types of recruiting violations occur and what factors lead to these violations, and to provide effective methods universities can implement to protect the integrity of their institutions to curtail future recruiting violations.

CHAPTER II

DOES ATHLETIC COMPLIANCE STAFF SIZE REALLY MATTER? AN INSTITUTIONAL TYPOLOGY OF REPORTED MAJOR NCAA DIVISION I (FBS) RECRUITING VIOLATIONS

Introduction

Universities and coaches may be openly labeled as cheaters through allegations of NCAA violations. In fact, some media outlets refer to such alleged actions as negligent, unethical, and reputation damaging (Forde, 2008). Though ethical lapses in the formal organizational structure of higher education are not singular to athletics (Kelley & Chiang, 2007), intercollegiate athletics rules violations may adversely affect the overall institutional prestige of a university. Furthermore, the recruitment of athletes to universities has been found to be integral to the success of an athletics program (Humphreys & Ruseski, 2006; DuMond, Lynch, & Platania, 2008) and one measure of coaching success (Cunningham & Dixon, 2003; Chelladurai & Reimer, 1997). Due to the importance of recruiting, the element of “recruiting advantage” gained through breaking the rules is embedded in the definition of a major NCAA violation (*NCAA Bylaw 19.02.2.2*). Because institutional prestige was found to be the objective of higher education fiscal spending (Bowen, 1980), universities must invest resources to protect institutional prestige by curtailing NCAA recruiting violations through a comprehensive NCAA rules compliance program.

To accomplish this system known as institutional control, universities have hired athletics compliance administrators to manage the comprehensive NCAA rules

compliance program. However, the ability of compliance coordinators to successfully curtail future NCAA violations is contingent upon multiple factors. Kihl (2007) found that individual factors of employing moral judgment and practical knowledge of rules interpretations, not “hiding behind the rules” (p. 299), and understanding of the expectations of sport industry stakeholders are integral to a successful compliance coordinator. The understanding of stakeholders’ expectations through the lens of the formal organizational structure of NCAA athletics may further elucidate why particular institutions are involved in violations of NCAA recruiting regulations stipulated in *NCAA Bylaw 13*.

This study explores the institutional factors of reported NCAA major recruiting violations. Expectations for universities’ stakeholders may follow these institutional factors and identify patterns that explain why particular recruiting violations are reported by the NCAA. Therefore, this study proceeds with a review of the extant literature regarding the organizational cartel structure of NCAA athletics particular to rules enforcement. Research questions from the literature review will lead to remainder of this study. The purpose of this work is to discover what (if any) institutional typologies that are correlated with various types of reported NCAA major recruiting violations pursuant to *NCAA Bylaw 13* in order to expand the existing boundary assumptions as to why such phenomena occur. It is the desire of the authors to identify institutional susceptibility to particular recruiting violations in order to provide athletic administrators with practical findings that may assist in focusing monitoring efforts for athletics compliance

coordinators to curtail prestige-damaging NCAA major recruiting infractions from occurring.

Review of the Literature

Extant literature asserts that the NCAA functions as a classic economic cartel by controlling inputs into college athletics to maximize profits (Fleisher, Goff, & Tollison, 1992; Kahn, 2006; Grant, Leady, Zygmunt, 2008; DeSchrive & Stotlar, 1996; Eckard, 1998) and control the perception of competitive balance or recruiting advantage through NCAA recruiting regulations in *NCAA Bylaw 13*. A cartel is an economic collusion where firms in the marketplace cooperate to control production and sales in order to maximize profits (Kahn, 2006; Grant et al. 2008). Three challenges presented to an economic collusion are: a) agreement on the appropriate actions of the group, b) preventing cheating, and c) controlling entry into the group (Grant et al. 2008). Therefore, the NCAA is concerned about the appropriate recruitment of prospective student-athletes to control entry into the NCAA and seeks to prevent cheating in the recruiting process. All three of these characteristics are mandated through recruiting policies that have become institutionalized by member institutions of the NCAA.

Recruiting prospective-student athletes is essential to controlling entry into the economic cartel of the NCAA. The recruiting process is extremely competitive because the benefits of effective recruiting are tangible and hundreds of universities, including archrivals, may pursue the same prospect simultaneously (DuMond et al., 2008). Because “athletes are the most essential human resource involved in the production of intercollegiate athletics” (Chelladurai & Reimer, 1997, p.134; Cunningham & Dixon,

2003), their performance may lead to increased winning percentages and revenue through ticket sales and postseason or bowl game appearances (Humphreys & Ruseski, 2006). Recruiting and signing an elite college football player can increase marginal revenues of an athletic department by as much as \$500,000 annually (Brown, 2001) and \$1 million for an elite college basketball player (Brown, 1994). Many universities with the top ranked recruiting classes have been found to win championships or have Top 10 finishes in college football (Croley, 2008). Recruiting can also have a major impact on the employment status of a coach because it is means of measuring the success of a college coach (Cunningham & Dixon, 2003). Simply, “recruiting is the lifeblood of the program” (O’Neil, 2008), which can lead to the perceived success or failure of a university athletics program and its coaches.

Due to the high impact of recruiting, the establishment of rules and sanctions for rules violations has been implemented to define appropriate actions and prevent cheating. NCAA recruiting rules follow the recruiting process (DuMond et al., 2008). This process typically begins by university coaches identifying the positional or talent needs of their particular sport, then seeking to address positional team needs by finding, evaluating, and getting prospects to commit to play at their university. These players can be found locally, regionally, nationally, and sometimes internationally. Once talented athletes are identified, certain coaches (who have passed an NCAA certification exam) will begin to gauge the prospective student-athletes’ interest by making contact through postal mail, electronic mail, electronic messages (e.g. text-messaging or instant messaging), and/or telephone calls. This point in the recruiting process is known as the

contact phase, where proper actions, modality, and locations of contacts/evaluations of talent occur and is controlled by *NCAA Bylaws 13.1* and *13.4*. For most prospective student-athletes, this process will begin well before their senior-year in high school. If continued mutual interest occurs, the contact with the prospect will continue and the evaluation process is initiated. Coaches evaluate prospects through multiple means such as reviewing game film of the prospect, attending the prospects' competitions or practices, and attendance at a summer camp or clinic on the university campus (*Bylaw 13.12*). When the interest of the prospect and coaches is mutually heightened, a prospect will visit the university campus. These campus visits are either official visits (where the university pays for the prospects' travel, food, lodging, and entertainment) or unofficial visits (where the prospect pays for the costs of the visit). Official visits (*NCAA Bylaw 13.6*) and unofficial visits (*NCAA Bylaw 13.7*) are also regulated by the NCAA. Limitations on the forms and amount of entertainment (*Bylaw 13.8*), transportation (*Bylaw 13.5*), academic assistance (*Bylaw 13.3*), and conducting a physical tryout of prospects (*Bylaw 13.11*) are restricted by the NCAA. Universities are also limited in the forms and use of recruiting funds (*Bylaw 13.14*) and pre-college expenses (*Bylaw 13.15*) given to prospects during the recruiting process.

Sometime during the recruiting process, some prospects are offered a one-year scholarship which promises that the university will pay for his or her cost of attendance (including tuition, room, board, and books) in exchange for playing the sport at the university. If the prospect agrees, he or she will sign a contract, known as the National Letter of Intent (NLI), agreeing to follow NCAA eligibility standards in return for the

scholarship offer (*Bylaw 13.9*). However, the NCAA rules prohibit the publicizing of prospects scholarship offers and visits to the media (*Bylaw 13.10*) in order to protect the student from undue pressures (*NCAA Constitution 2.11*). Alternatively, prospects not offered a scholarship are asked to “walk on” by receiving no financial assistance, but having the opportunity to compete for a future scholarship as a member of the team. From time to time, university alumni (boosters), coaches, or staff may offer money, cars, loans, and/or houses to entice a prospect to play for a particular university. According to the NCAA, these inducements are unethical conduct (*Bylaw 10.1*) and in violation of recruiting rules (*Bylaw 13.2*). In order for a university to be a member institution of the NCAA, universities are obligated to abide by the rules and regulations of the NCAA (*NCAA Constitution 1.3.2*).

The agreement of appropriate actions of NCAA member institutions lead to established sanctions that are essential to enforce rules compliance. In order to prevent cheating, sanctions are placed upon institutions or individuals within the NCAA cartel for violating the rules. These sanctions can be restrictions on production, actions, monetary fines, and the stigma that the rules violator cheats. The severity of the NCAA violation depends on the amount of recruiting or competitive advantage gained from a particular action in the recruiting process. There are two levels of severity to NCAA infractions on the institutional level: a) major violations (the most severe) that provide a “significant recruiting advantage” (*Bylaw 19.02.2.2*) and b) secondary violations (less severe) that provide a “minimal recruiting advantage” (*Bylaw 19.02.2.1*). When an institution does not adequately establish a rules compliance program, the added moniker

of either “failure to monitor” or “lack of institutional control” may be added to a major violation. The lack of institutional control epithet may lead to heightened sanctions by the NCAA and increased public scrutiny for not being able to prevent cheating in its own athletic department. On the individual level, coaches may be individually sanctioned by the NCAA by a “show-cause order.” This is where an institution must demonstrate to the NCAA Committee on Infractions why individuals found in violation of rules should be permitted to coach without additional restrictions (*Bylaw 19.02.1*). While the most severe institutional violations are deemed a lack of institutional control, the most severe individual sanctions can be found in a show-cause order.

When the expected cost associated with the sanction from a violation of the cartel agreement is less than the expected benefits, cartel members will have incentive to follow the rules (DeSchrive & Stotlar, 1996). There is financial incentive to violate NCAA rules (Padilla & Baumer, 1994; Brown, 1994; Fleisher et al., 1992; Baxter, Margavio, & Lambert, 1996; DeSchrive & Stotlar, 1996; Brown, 2001; Humphreys & Ruseski, 2006). This incentive may come in the form of increased marginal revenues by recruiting elite athletes (Brown, 1994; Brown, 2001), increased postseason revenues (Humphreys & Ruseski, 2006), or increased ticket revenues (Padilla & Baumer, 1994; Humphreys & Ruseski, 2006; Fleisher et al., 1992; Kahn, 2006; Grant et al., 2008; DeSchrive & Stotlar, 1996). To counterbalance this incentive for rules violations, the NCAA has claimed that it will increase the severity of sanctions (Wieberg, 2008). By increasing sanctions, Fleisher et al. (1992) found that NCAA violations will decrease. However, the effectiveness of the current sanctioning process of the NCAA has been

questioned by researchers asserting that oft-used scholarship limitations sanction may not curtail future NCAA violations (McEvoy, 2008). It is questionable that the costs associated with NCAA recruiting violations sanctions is greater than the benefits of breaking regulations stipulated in *NCAA Bylaw 13*.

Previous research on NCAA violations has identified patterns that need further investigation to explain why recruiting violations occur. However, some previous research has not distinguished between the levels of severity of different NCAA violations. Prior to the formation of the Bowl Championship Series (BCS), Baxter et al. (1996) found that having: a) membership in a conference, b) a lower selectivity in the university admissions process, c) a greater number of competitors in the general proximity of the university, and d) universities located in the South and Southwestern regions of the United States were more prone to commit NCAA violations. No specific types of NCAA violations or their severity were discussed by Baxter et al. (1996). Also, Mahony, Fink, and Pastore (1999) found that NCAA violations had increased from 1952 through 1997. In 1997, a monumental organizational structural shift occurred in NCAA athletics through the formation of the BCS. Six conferences (the ACC, Big East, Big Ten, Big 12, Pac 10, and SEC) were given automatic opportunities to compete for the football national championship. Following this structural change, Clark and Batista (2009a) found that membership in a BCS affiliated conference university increased the likelihood of reported major NCAA infractions. Furthermore, recruiting violations are numbered among the most prevalent form of NCAA major infraction and secondary recruiting violations have steadily increased since 2002 (Clark & Batista, 2009a). When

reported major recruiting violations occur, female coaches involved in the violation are more likely to be fired or forcibly resign than their male counterparts (Clark & Batista, 2009b). Because the NCAA functions as a cartel, it is no surprise that revenue sports (football and men's basketball) are highly correlated to the commission of major reported recruiting violations (Clark & Batista, 2009b). However, these previous studies have not examined particular aspects in the recruiting process or different types of recruiting violations (i.e. offers and inducements, contacts and evaluations, camps and clinics, etc.). Because there are multiple types of recruiting violations that may occur, a greater depth of analysis addressing multiple types of recruiting violations and institutional factors may explicate why particular recruiting violations occur in NCAA member institutions. Inclusive in this analysis is the influence of athletic compliance staff size regarding particular types of recruiting violations. This study utilizes previous institutional findings of Baxter et al. (1996), Mahony et al. (1999), and Clark and Batista (2009a & 2009b) to expand the current boundary assumptions of NCAA violations research.

Research Questions

Through review of the literature regarding NCAA recruiting infractions, the following questions emerged to be addressed in this study:

Q1: Are certain NCAA Division I (FBS) universities in various conferences, geographic regions, and certain sports therein more susceptible to certain types of NCAA recruiting violations that are reported by the NCAA?

Q2: Are show-cause or lack of institutional control sanctions more likely in certain types of reported major recruiting violations?

Q3: Does the size of an athletics compliance staff on a NCAA Division I (FBS) member institution's campus correlate to certain types of recruiting violations being reported by the NCAA?

Methodology

The NCAA records all public infractions reports for each major recruiting violation in the Legislative Services Database for the Internet (LSDBi) reported from 1987 to the present. Each infractions report categorizes the major recruiting violation by the NCAA bylaws violated, the name of the University involved in the infraction, the sport(s) involved, and sanctions given to the institution for the rules violation. As such, data were collected through the use of LSDBi in order to determine the frequency of particular types of recruiting violations. These types of recruiting violations, established by NCAA mandate, follow the recruiting process and formulated the recruiting violation type variable consisting of *NCAA Bylaws 13.1* through *13.15*. *NCAA Bylaws 13.3* and *13.16* were omitted from the data analysis because there were no reported major recruiting infractions involving these particular recruiting rules.

Each NCAA member institution found to have committed a major recruiting violation was categorized by the current conference affiliation of the University, geographic region where the institution resides, the sports involved with the violation, whether or not individuals were sanctioned with a show-cause order, and the number of full-time compliance staff members at the time the major infraction was committed. To

further test the previous findings of Clark and Batista (2009a), a dichotomous categorical variable of BCS conference affiliation and Non-BCS conference affiliation was created. Therefore, universities like SMU, which were formerly affiliated with a major BCS-like conference, were categorized as Non-BCS conference universities. The geographic regions utilized by Clark and Batista (2009a) and the United States Department of State and its Diplomatic Embassies (2007) were used in this study. This variable consisted of six areas: the South, Southwest, Midwest, West, Mid-Atlantic, and New England. Because there were minimal violations in the Mid-Atlantic and New England, these variables were combined into the Northeast variable. Each sport involved in a major recruiting infraction was recorded separately and categorized dichotomously as either a revenue sport (men's basketball or football) or a non-revenue sport (all other sports) pursuant to the findings of Mahony et al. (1999) and Clark and Batista (2009b). In order to determine the number of full-time athletic compliance staff employed during the major recruiting infraction, each public infractions report was examined, institutional athletic websites were researched for more recent violations, and public copies of universities' NCAA ten-year certification reports were examined. For each major recruiting infraction, the size of compliance staff was broken into three categories: a) a compliance staff size of one or less, b) a staff size of two, or c) a staff size of three or more at the time of the violation.

Reported secondary infractions were also retrieved from the NCAA LSDBi. However, secondary infractions do not list the name of the member institution and thereby eliminating the possibility of discovering the conference affiliation and

geographical location of the institution. The sport affiliated with the secondary infraction and the NCAA recruiting bylaw violated in the secondary recruiting infraction was available. As such, secondary recruiting infractions in this work are utilized to identify what types of recruiting violations are considered less severe than the major recruiting infraction counterparts. Secondary recruiting infractions were not analyzed statistically as the major reported recruiting violations that have the institutional information sought by the authors.

Chi square analyses were conducted to test the relationship between types of reported major recruiting violations of *NCAA Bylaw 13* and a) conference affiliation, b) geographic region, c) the sports involved with the violation, d) whether or not individuals were sanctioned with a show-cause order, e) whether or not an institution was charged with a lack of institutional control, and f) the number of full-time compliance staff members at the time the major infraction was committed. An additional analysis was conducted to test the relationship between the size of an athletics compliance staff and a) show-cause order sanctions for recruiting violations, b) lack of institutional control sanctions for recruiting violations, c) geographic region of the institution, and d) conference affiliation. Alpha levels were set at 0.05 to ascertain statistical significance.

Results and Discussion

There are certain types of reported recruiting violations that are considered more severe than others by the NCAA. In order to distinguish the severity, the NCAA has sanctioned member institutions with major infractions for violations of particular NCAA

recruiting bylaws more often than other recruiting violation types. Furthermore, patterns of institutional characteristics that are found to deviate from the cartel agreements of the NCAA elucidating why particular reported major recruiting violations may occur in NCAA Division I (FBS) athletic programs.

Severity of Reported Recruiting Violations

Secondary violations are considered less severe violations because they cause an inadvertent recruiting advantage and occur more frequently than reported major recruiting violations. Over 4,600 secondary recruiting infractions were reported by the NCAA from 2003 to 2008 in Division I athletic departments. Almost half of these secondary recruiting infractions were violations of contacts and evaluations (*Bylaw 13.1*) of prospective student-athletes (see Table 1). These contact and evaluation limitations include the number of telephone calls a prospect may permissibly receive, multiple exceptions of when and how often certain sports coaches may contact and/or evaluate recruits. The high frequency of secondary violations indicates that contacts and evaluations mandates by the NCAA are confounding many coaches, leading to multiple inadvertent violations of *Bylaw 13.1*. In response to the rate of *Bylaw 13.1* violations, the NCAA and member institutions have issued over 550 rules interpretations that are not included in the NCAA regulations, but are expected to be followed. Thus, unintentional violations of contacts and evaluations regulations are not surprising due to the overabundance of mandates in *Bylaw 13.1*. Yet, not all secondary recruiting violations may be unintended.

Table 1
Reported Secondary Recruiting Infractions (2003-2008)

| Type of Secondary Recruiting Violation | Percent of Total |
|--|------------------|
| 13.1- Contacts and Evaluations | 48.15 |
| 13.6- Official Visits (paid) | 17.96 |
| 13.10- - Publicity | 6.75 |
| 13.2- Offers and Inducements | 6.43 |
| 13.11- Tryouts | 5.02 |
| 13.12- Camps and Clinics | 4.86 |
| 13.7- Unofficial Visits (unpaid) | 3.30 |
| 13.5- Transportation | 2.56 |
| 13.8-Entertainment, Reimbursement, and Employment of High School/Prep School/ Junior College Coaches | 1.48 |
| 13.15- Precollege Expenses | 1.43 |
| 13.9- National Letter of Intent (NLI) and Financial Aid Program | 1.37 |
| 13.4- Recruiting Materials | 0.45 |
| 13.14- Use of Recruiting Funds | 0.25 |

Several intentional secondary recruiting violations are reported by the NCAA to occur less frequently than *Bylaw 13.1*. The next most frequent secondary infraction involves official visits (*Bylaw 13.6*), where only 25% of the official visits secondary infractions were self-reported. Because the official visit is a critical part of the recruiting process, it is apparent that coaches and institutions are willing to utilize a “bend, but don’t break” philosophy with *Bylaw 13.6*. In other words, one can push the limitations of the rules and break the rules to the point where it may not be considered a major recruiting violation, but will provide some recruiting advantage. In recognition of this behavior, the NCAA added a provision to the definition of secondary violations that “multiple secondary violations by a member institution may collectively be considered as a major violation” (*Bylaw 19.02.2.1*). While secondary recruiting infractions may inform of the perceived severity of certain recruiting violations, major recruiting infractions “reflect a general disregard for the governing rules” (*Bylaw 19.01.5*) of the NCAA cartel structure.

Major reported recruiting violations may be categorized into three groups (see Table 2). The first group consists of approximately half of the reported major violations, which include major violations of offers and inducements given to prospects (*Bylaw 13.2*) and violations of contacts and evaluations regulations (*Bylaw 13.1*). Over 80% of the reported major recruiting violations involved a violation of *Bylaw 13.2* and 28.27% of the major recruiting infractions cases were centered on major violations of recruiting offers and inducements to prospective student-athletes. The NCAA expressed that using money, cars, gifts, loans, and other inducements to entice recruits to chose a university is

unethical conduct (*Bylaw 10.1*) that does not “represent the honor and dignity of fair play and generally recognized high standards associated with wholesome competitive sports” (*Bylaw 10.01*). Not only has the NCAA mandated that violations of *Bylaw 13.2* are among the most severe violations of NCAA rules, it is also the most frequently cited major recruiting violation. Major recruiting violations of contacts and evaluations (*Bylaw 13.1*) were tangentially involved with over 60% of major recruiting violations and the focal bylaw of 21.91%. Because *Bylaw 13.1* violations are also the most prevalent reported secondary recruiting violation, it is apparent that multiple secondary violations of contacts and evaluations rules lead to many major recruiting violations of *Bylaw 13.1*. NCAA conferences and member institutions have sought to ease the monitoring burdens and the repeated violations of *Bylaw 13.1* through Proposal Number 2009-32, which seeks to alter telephone call limitations making it permissible to have unlimited telephone calls during a contact period. This proposal may lead to lower secondary violations of *Bylaw 13.1*, but overt attempts to violate contacts and evaluations restrictions may also continue leading to reported major infractions. Therefore, reported violations of *Bylaws 13.2* and *13.1* are considered the most severe by NCAA enforcement standards.

Reported violations that occur less frequently and are considered less severe comprise the other two groups of major recruiting infractions. The second group includes major violations of transportation (*Bylaw 13.5*), official visits (*Bylaw 13.6*), and tryouts (*Bylaw 13.11*) recruiting regulations. When combined together, this second group of major violations occurs as frequently as offers and inducements. Nevertheless, these

Table 2
Reported Major Recruiting Violations (1987-2008)

| Type of Major Recruiting Violation (Reported by NCAA) | Percent of Total |
|--|------------------|
| 13.2- Offers and Inducements | 28.27 |
| 13.1- Contacts and Evaluations | 21.91 |
| 13.5- Transportation | 10.95 |
| 13.6- Official Visits (paid) | 10.6 |
| 13.11- Tryouts | 8.13 |
| 13.7- Unofficial Visits (unpaid) | 4.95 |
| 13.8-Entertainment, Reimbursement, and Employment of High School/Prep School/ Junior College Coaches | 4.24 |
| 13.12- Camps and Clinics | 3.18 |
| 13.15- Precollege Expenses | 2.83 |
| 13.4- Recruiting Materials | 2.47 |
| 13.10- Publicity | 1.41 |
| 13.9- National Letter of Intent (NLI) and Financial Aid Program | 0.71 |
| 13.14- Use of Recruiting Funds | 0.35 |

violations are more often considered to be secondary infractions of lower severity. The third group includes the remainder of the reported major recruiting violations. These violations occur less frequently in both forms of severity. It is important to note that the National Letter of Intent (NLI) violations (*Bylaw 13.9*) were low in both major and secondary reported violations. This may be attributed to the brevity of the rules contained in *Bylaw 13.9*, as well as signing an NLI is the conclusion of the competition with other schools in the recruiting process. Although the third group did not have the highest frequency of major reported recruiting violations, repeated defiance of these recruiting bylaws may lead to major infractions. Also, insubordination of *Bylaws 13.2* and *13.1* will most quickly lead to a major recruiting violation. Thus, it is crucial to understand the institutional characteristics that may elucidate why particular types of reported major recruiting violations may occur.

Conference Affiliation

The conference affiliation of a university significantly contributed to why particular reported NCAA major recruiting violations occurred, particularly BCS conference affiliation ($\chi^2 = 55.739$, $df=40$, $p=.05$). Over 75% of all reported major recruiting violations involved universities with BCS conference affiliation. This supports the previous findings of Clark and Batista (2009a). Particular recruiting violations have been found to be more pronounced in certain BCS conferences. Beginning with the most severe violations of *Bylaw 13.2*, universities affiliated with the Big Ten, Big 12, and SEC were most likely to commit a major recruiting violation that is reported by the NCAA. Also, Big Ten Conference universities were reported to be more likely to violate

Bylaw 13.1 contacts and evaluations rules. Violations of slightly lower severity involved the Big East. Transportation major violations (*Bylaw 13.5*) and official visits major violations (*Bylaw 13.6*) involved institutions affiliated with the Big East, Big Ten, and SEC. Among these transportation violations include private jets or impermissible transportation outside official or unofficial visits. Therefore, several SEC conference schools may attempt to entice prospects through overly extravagant modes of transportation and official visit benefits, whereas Big East and Big Ten schools may seek to verify their evaluations in forms of impermissible tryouts (*Bylaw 13.11*). Furthermore, the Big East, Big Ten, and SEC were also more likely to be involved in major violations including entertainment (*Bylaw 13.8*), unofficial visits (*Bylaw 13.7*), precollege expenses (*Bylaw 13.15*), recruiting materials (*Bylaw 13.4*), publicity (*Bylaw 13.10*), NLI (*Bylaw 13.9*), and use of recruiting funds (*Bylaw 13.14*). On the BCS level, the Pac 10 and ACC were the least likely to have been reported for major recruiting infractions. On the Non-BCS level, institutions affiliated with the Mountain West, WAC, and Conference USA were more likely than the MAC and Sun Belt to be reported for major recruiting violations. This Non-BCS phenomenon may exist as four teams from either the Mountain West or WAC have participated in a BCS Bowl game and SMU (in Conference USA) was once numbered among the conference elite in the Southwest Conference. The BCS structure may influence the reporting of major recruiting infractions for even Non-BCS institutions.

Geographic Region

The geographic region of the NCAA Division I (FBS) member institutions was a significant factor in reported major recruiting violations ($\chi^2 = 29.632$, $df=16$, $p<.05$). With an exception of a few recruiting violation types, the South and the Midwest were the two regions where most reported major recruiting violations may most likely occur. Furthermore, universities in the Midwest may be more likely to be involved in reported major recruiting violations of contacts and evaluations (*Bylaw 13.1*), recruiting materials (*Bylaw 13.4*), and publicity (*Bylaw 13.10*). These violations of *Bylaws 13.1*, *13.4*, and *13.10* occur in the contact phase of the recruiting process, which violations were communicative in nature with prospects and the media. Universities located in the South were more likely to have reported major recruiting violations in financial matters including the use of recruiting funds (*Bylaw 13.14*) and the NLI/ financial aid program (*Bylaw 13.9*). On the other hand, universities located in the Northeast and West were least likely to be reported for all types of major recruiting infractions. This finding statistically supports the empirical findings of Clark and Batista (2009a) that the South and Midwest are significant factors in reported major recruiting violations. This discovery also differs from the findings of Baxter et al. (1996) that cite the Southwest region and the South as the most prone to NCAA violations.

NCAA Sanctioned Sport

The type of sport reported involved in a reported major recruiting infraction was also another statistically significant institutional factor ($\chi^2 = 11.932$, $df=4$, $p<.02$). Nearly all of the types of reported recruiting violations involved the revenue sports of men's

basketball and football. Camps and clinics (*Bylaw 13.12*) and tryouts violations (*Bylaw 13.11*) serve as the anomaly where non-revenue sports were involved in a greater frequency of major recruiting violations than revenue sports. Both *Bylaw 13.11* and *13.12* violations occur on a university campus. Whereas revenue sports involved in major violations that occurred during the contacts, evaluations, visits to campus, and financial aid offers phases of the recruiting process were most likely to occur off-campus or through communicative methods (i.e. text messaging, phone calls, etc.).

The financial repercussions of revenue generation through men's basketball and football were apparent driving forces in the violation of NCAA recruiting regulations on the Division I (FBS) level. Thus, supporting that there may be financial incentive for revenue sports to violate NCAA recruiting rules (Padilla & Baumer, 1994; Humphreys & Ruseski, 2006) and statistically supporting the empirical findings of Clark and Batista (2009b) that revenue sports are a significant contributor to NCAA rules violations. Furthermore, this illustrates that money may be a significant factor in why most reported major recruiting violations occur. It is recommended that institutions focus compliance monitoring efforts for non-revenue sports recruiting in the areas of tryouts (*Bylaw 13.11*) and camps and clinics (*Bylaw 13.12*). Also, compliance monitoring efforts should commit most compliance resources in the monitoring of and rules education to men's basketball and football to curtail future major recruiting violations reported by the NCAA.

Table 3
Institutional Typology of Reported NCAA Major Recruiting Violations

| Recruiting Violation Type | Conference Affiliation | Geographic Region | Sport | Compliance Staff Size |
|---------------------------------|----------------------------|-------------------|-------------|-----------------------|
| 13.2- Offers and Inducements | Big Ten Big 12 SEC | South Midwest | Revenue | 1 |
| 13.1- Contacts and Evaluations | Big Ten | Midwest | Revenue | 1 or 2 |
| 13.5- Transportation | Big East Big Ten SEC | Midwest South | Revenue | 1 |
| 13.6- Official Visits | Big East Big 12 SEC | South Midwest | Revenue | 1 |
| 13.11- Tryouts | Big East Big Ten | South Midwest | Non-revenue | 1 |
| 13.7- Unofficial Visits | Big East Big 12 SEC | South Midwest | Revenue | 1 |
| 13.8-Entertainment | Big East Big Ten SEC | Midwest South | Revenue | 1 |
| 13.12- Camps and Clinics | Big East Big Ten | South Midwest | Non-revenue | 1 |
| 13.15- Precollege Expenses | Big Ten SEC | Midwest South | Revenue | 1 |
| 13.4- Recruiting Materials | Big Ten | Midwest | Revenue | 1 |
| 13.10- Publicity | Big Ten | Midwest | Revenue | 1 |
| 13.9- NLI Financial Aid Program | Big East | South | Revenue | 1 |
| 13.14- Recruiting Funds | SEC | South | Revenue | 1 |

Compliance Staff Size

The size of a university's athletic compliance staff has a significant impact on which particular major recruiting violations are reported in NCAA Division I (FBS) athletics programs ($\chi^2 = 37.672$, $df=8$, $p<.01$). Universities with only one compliance staff member were more likely have been cited with a major recruiting infraction, compared to other universities with more compliance staff members. Thus, universities with only one compliance coordinator may be more susceptible to all types of reported major recruiting violations. In some cases, two or three compliance coordinators may be insufficient (see Table 3). Such was the case with contacts and evaluations violations (*Bylaw 13.1*) where two compliance coordinators was insufficient and universities with three or more full-time compliance staff members employed were reported to have major recruiting violations in offers and inducements (*Bylaw 13.2*). These anomalies may exist due to the difficulty of monitoring under-the-table payments by boosters, telephone calls and evaluations of prospects by coaches, and breadth of the rules interpretations of *Bylaw 13.1*. It was found that employing more athletic compliance staff may decrease the frequency of major recruiting violations reported by the NCAA ($\chi^2 = 37.672$, $df=8$, $p<.01$). Additional analyses of compliance staff size pursuant to conference affiliation, geographic region, and the sanctions of a lack of institutional control or show-cause order were conducted.

Conference affiliation. Major reported recruiting violations were most likely to occur in a BCS conference university with one compliance coordinator ($\chi^2 = 11.354$, $df=2$, $p<.01$). The Big East was found to have the most major recruiting violations

reported with only one compliance staff member employed at the time of the infraction. In all BCS affiliated conference universities, the frequency of reported major recruiting violations decreased when three or more compliance staff members were employed. The impact of conference affiliation was also manifest in Non-BCS programs, where approximately 75% of Non-BCS recruiting violations occurred when a university employed only one compliance coordinator. The NCAA is least likely to report a major recruiting infraction when there are three or more compliance coordinators on staff, particularly in Non-BCS affiliated programs where less than 1% of the major recruiting violations occurred with a staff of three or more compliance coordinators. Therefore, it is recommended that both BCS and Non-BCS affiliated conference universities should employ three or more compliance staff members to curtail future reported major recruiting violations.

Geographic region. Universities located in the geographic regions of the South and Midwest were more prone to be reported for major recruiting violations while employing only one compliance staff member ($\chi^2 = 38.330$, $df=8$, $p<.01$). In all geographic regions except the Southwest, incidents of reported major recruiting violations decreased when two or more compliance staff were employed at the time of the violation. Unlike the other geographic regions, universities in the Southwest were found to have the same frequency of reported major recruiting violations with one or two staff members. Athletic programs in the Northeast and West were most likely not to have any major violations when a university employs three or more staff. All geographic regions had decreased reported major recruiting violations when three or more

compliance staff members were employed during the course of a major infraction. Thus, it is recommended that universities in all geographic regions hire at least two compliance staff members and in the Southwest region at least three compliance staff members in order to curtail future major reported recruiting violations.

Lack of institutional control. The NCAA Committee on Infractions found that insufficient policies and procedures were in place to prevent recruiting violations from occurring leading to a lack of institutional control sanction in over 43% of all universities cited for major recruiting infractions. In particular, universities that were found in violation of *Bylaws 13.1* and *13.2* were more likely to also be cited for lack of institutional control ($\chi^2 = 18.073$, $df=9$, $p<.05$). Over 50% of the lack of institutional control sanctions cases involved violations of *Bylaws 13.1* and *13.2*, suggesting that the NCAA Committee on Infractions cartel agreements favor to more harshly sanction universities for violations of impermissible contacts, evaluations, offers, and inducements.

It was also found that the size of a compliance staff was significantly correlated to a university receiving a lack of institutional control sanction ($\chi^2 = 5.987$, $df=2$, $p<.05$). Universities with one or two full-time compliance staff members were found to be cited more frequently for a lack of institutional control. This may seem logical because the more individuals dedicated to producing and monitoring university policies and procedures may curtail future violations of recruiting regulations. Moreover, approximately 80% of universities cited for a lack of institutional control were from a BCS affiliated conference and approximately 60% of these universities were located in

either the South or the Midwest (see Table 4). Universities with conference affiliation in the Big East, Big Ten, and Big 12 Conferences ($\chi^2 = 23.980$, $df=10$, $p<.01$) and revenue sports ($\chi^2 = 1.103$, $df=1$, $p<.05$) were more likely to be cited for a lack of institutional control.

A dichotomy between individual show-cause order and organizational lack of institutional control sanctions were found in this study. When a lack of institutional control violation was given to a university, most individuals (i.e. coaches or staff) involved in the violation were not sanctioned with a show-cause order ($\chi^2 = .986$, $df=1$, $p<.05$). This finding is particularly pertinent, as it insinuates that athletic compliance is a balance between institutional control over athletics programs and individual morality of following the rules. If, for instance, institutional policies and procedures are lacking at a university and a coach violates a recruiting rule, then it is more likely that the university will be sanctioned for lack of institutional control than a show-cause order.

Show-cause order. Institutional characteristics of where university coaches and staff are employed during a reported major recruiting infraction that resulted in a show-cause order exist. Most show-cause order sanctions in recruiting were given to university coaches or staff members that were reported to have impermissibly offered inducements in violation of *Bylaw 13.2*. Not only is the show-cause order the most serious sanction given to individual university coaches and staff by the NCAA, it also supports that *Bylaw 13.2* is considered the most severe of the NCAA recruiting regulations that an individual may violate. Also, over 70% of show-cause orders issued involved a BCS conference affiliated university with the Big Ten and SEC leading the way (see Table 4).

Table 4
Show-Cause Order and Lack of Institutional Control in Reported NCAA Major Recruiting Violations

| Show Cause Order | % with Show-Cause | % with Lack of Institutional Control |
|--|-------------------|--------------------------------------|
| Conference Affiliation | | |
| BCS Affiliation | 73.77 | 79.55 |
| Big Ten | 22.95 | 20.45 |
| SEC | 19.67 | 18.18 |
| Big East | 8.20 | 9.09 |
| Big 12 | 8.20 | 20.45 |
| ACC | 8.20 | 4.55 |
| PAC 10 | 6.56 | 6.82 |
| Non-BCS Affiliation | 26.23 | 20.45 |
| Conf. USA | 6.56 | 2.27 |
| WAC | 6.56 | 6.82 |
| Mtn. West | 4.92 | 6.82 |
| Sun Belt | 4.92 | 2.27 |
| MAC | 3.28 | 2.27 |
| Geographic Region | | |
| South | 34.43 | 29.55 |
| Southwest | 26.23 | 20.45 |
| Midwest | 24.59 | 29.55 |
| West | 9.84 | 18.18 |
| Northeast (New England & Mid-Atlantic) | 4.92 | 2.27 |
| Sport | | |
| Revenue Sport | 65.69 | 72.22 |
| Non-Revenue Sport | 34.31 | 27.78 |

Over 80% of these show-cause orders were issued to universities located in the South, Southwest, and Midwest in respective order of frequency. Furthermore, the staff or coaches in the revenue sports of football and men's basketball account for over 65% of all show-cause order penalties. These individual sanctions were found to most likely to occur when a university only employed a single compliance coordinator to monitor, educate, and manage the athletic compliance program ($\chi^2 = 9.891$, $df=2$, $p<.01$). It is recommended that universities seeking to eliminate show-cause order sanctions from reported major recruiting infractions should employ at least two full-time compliance staff members.

Limitations and Future Directions

This study examined the reported violations of NCAA recruiting regulations. Undoubtedly, there are violations of recruiting rules that are not reported to the NCAA, which are not included in the analysis of this work. Future research should examine the prevalence of unreported recruiting violations in NCAA Division I (FBS) athletic programs, the types and severity of the unreported recruiting violations occurring, and the individual and institutional factors that influence the occurrence of unreported NCAA recruiting violations. Also, obtaining institutional information on secondary recruiting violations would further elucidate the institutional characteristics of self-reported recruiting violations and the future research on factors that establish a compliant culture in NCAA Division I (FBS) athletic programs. This analysis may be extended to institutions in NCAA Division I (FCS and I-AAA), Division II, and Division III. By combining the institutional findings of reported and unreported NCAA recruiting

violations, athletic administrators may be provided with information to focus monitoring, educational, and overall compliance efforts in particular facets of the recruiting process.

Implications and Conclusion

The NCAA rules enforcement program functions like a classic economic cartel where the agreement of appropriate actions of NCAA member institutions leads to established sanctions that are essential to enforce rules compliance in the recruiting process. By mandating *Bylaw 13*, the NCAA seeks to prevent undue recruiting advantage for some universities and established various types of recruiting violations varying in severity. This study found three groupings for the severity of reported major recruiting violations in NCAA Division I (FBS) athletics programs. The highest level of severity in recruiting was found in offers and inducements (*Bylaw 13.2*) and repeated violations of contacts and evaluations rules (*Bylaw 13.1*). Most lack of institutional control sanctions against universities and show-cause order sanctions against individual staff members were given when the recruiting violation involved impermissible offers and inducements of *Bylaw 13.2*. NCAA conferences and member institutions have sought to ease the monitoring burdens and multiple inadvertent secondary violations of *Bylaw 13.1* through Proposal Number 2009-32, but this effect on the frequency of *Bylaw 13.1* major infractions has yet to be determined. Thus, efforts are being made to alter the complexity *Bylaw 13.1* and the institutional responsibility for individual efforts to violate *Bylaw 13.2*.

Although the second level may also be considered a major infraction, rules violations of transportation (*Bylaw 13.5*), official visits (*Bylaw 13.6*), and tryouts (*Bylaw 13.11*) must be violated repeatedly as secondary infractions and coupled with the first level (*Bylaws 13.1* and *13.2* violations) to become a major infraction. The third level of recruiting violations severity must also be violated repeatedly or coupled with the first level of severity to constitute a major infraction reported by the NCAA. This level includes reported major violations of: unofficial visits (*Bylaw 13.7*), entertainment and employment of prospects' coaches (*Bylaw 13.8*), camps and clinics (*Bylaw 13.12*), precollege expenses (*Bylaw 13.15*), recruiting materials (*Bylaw 13.4*), publicity (*Bylaw 13.10*), National Letter of Intent/ Financial Aid Program (*Bylaw 13.9*), and use of recruiting funds (*Bylaw 13.14*). Several institutional characteristics were found to be significant contributors as to why particular reported major recruiting violations occur.

This study found that systemic influences of the NCAA cartel, particularly the conference alignment of the Bowl Championship Series (BCS), may elucidate why some NCAA Division I (FBS) universities in various conferences, geographic regions, and particular NCAA sponsored sports were more susceptible to certain types of reported NCAA recruiting violations. The NCAA may be more likely to report major recruiting violations in universities that: a) are affiliated with a BCS conference, b) are located in the South or Midwest, c) have only one athletic compliance staff member working full-time on campus, and d) are seeking to gain revenues through men's basketball and football. Violations of *Bylaws 13.1* and *13.2*, which may be more likely to lead to a lack of institutional control sanction, were found to occur in men's basketball or football

programs that employ only one or two compliance staff and have BCS conference affiliation in the Big Ten, Big 12, or SEC. On the other hand, Non-BCS conference affiliated universities along with BCS conferences Pac 10 and ACC, were found to be less likely to have been reported for major violations of *Bylaws 13.1* and *13.2*.

The size of an athletics compliance staff on a NCAA Division I (FBS) member institution's campus may correlate to certain types of recruiting violations being reported by the NCAA. By employing more athletic compliance staff, a university may decrease the frequency of major recruiting violations. On the BCS level, this may be particularly pertinent in curtailing major recruiting violations that lead to lack of institutional control sanctions. On the Non-BCS level, almost all reported major recruiting violations may be curtailed through a staff size of three or more. Furthermore, the likelihood of a show-cause order may also be lessened by increasing the athletic compliance staff size at a university. Thus, universities and athletic administrators may lessen the likelihood of reported major recruiting violations, particularly violations of *Bylaws 13.1* and *13.2* that may lead to greater institutional sanctions, by investing institutional resources in athletics compliance personnel.

The regulation of NCAA recruiting rules rests heavily upon the education and monitoring efforts of athletic compliance staff members. This study found that the size of an athletics compliance staff has a significant impact upon the frequency of reported major recruiting violations, especially violations of *Bylaws 13.1* and *13.2*, in NCAA Division I (FBS) athletics programs. Therefore, if NCAA Division I (FBS) member institutions seek to curtail future reported major recruiting violations, employing at least

three capable, full-time compliance staff members may an excellent compliment to other athletic compliance systems such as rules education and monitoring efforts. By so doing, universities may be able to meet the demands of the NCAA cartel agreements on recruiting action by institutions and individuals.

CHAPTER III

A TYPOLOGY OF UNDISCLOSED RECRUITING VIOLATIONS IN NCAA DIVISION I (FBS) ATHLETIC PROGRAMS: IMPLICATIONS FOR POLICY DEVELOPMENT AND COMPLIANCE

Introduction

In 2001, an assistant high school coach notified several universities in the Southeastern conference (SEC) that a highly regarded football recruit would play for their university at the cost of \$200,000 in under-the-table payments (Fish, 2005). Later, coaches from Auburn, Alabama, Arkansas, Georgia, Kentucky, Memphis, Michigan State, Mississippi, and Tennessee stated that they were continually solicited to increase their payments to the prospective student-athlete without the knowledge of the NCAA. This process continued until Coach Fulmer from Tennessee notified the NCAA and FBI of the under-the-table payments from rival Alabama to the prospect (Fish, 2005). By 2002, the NCAA completed its investigation and sanctioned Alabama for a major recruiting violation. In the public infractions report the NCAA found that Alabama harbored an “engrained culture of non-compliance”, and stated:

[R]ogue athletics representatives [boosters] demonstrate a profound and worrisome immaturity [and] even if sincere, their claimed motivation for cheating -- helping a university to recruit blue-chip athletes -- betrays a lack of integrity and a "win-at-all-costs" attitude that undermines and cheapens athletics competition and corrupts the ethics and maturation process of the young people they claim to be ‘helping’ (LSDBi, 2002).

Approximately three years after the major recruiting violation was reported by the NCAA, Alabama booster Logan Young and high school coaches Lynn Lang and Milton Kirk were convicted for “conspiracy to commit racketeering” according to Tennessee state bribery laws, “crossing state lines to commit racketeering, and arranging bank withdrawals to cover up a crime” (Schlabach, 2005). Although the University of Alabama could have claimed that recruiting violations were not occurring prior to being turned in by a rival football coach, the high school coaches involved in the violations claimed that this behavior had been occurring for several years without preventative action from the institution or NCAA. Furthermore, this behavior was not singular to Alabama. Such organizational deviance led to multiple undisclosed recruiting violations occurring without the knowledge of the NCAA until the rogue crimes were brought to light and reported by the NCAA and FBI.

There is an assumption that NCAA violations are not occurring at universities that have not been reported by the NCAA as having committed an infraction. Because recruiting talented athletes is critical to the success of a NCAA Division I Football Bowl Subdivision (FBS) athletics program (Cunningham & Dixon, 2003; O’Neil, 2008; Chelladurai & Reimer, 1997), universities and individuals therein seek to creatively lure prospective student-athletes into competing for their teams (Dumond, Lynch, & Platania, 2008). In response to this recruiting competition, the NCAA has established guidelines to control actions of university staff, coaches, and prospective student-athletes during the recruiting process. Meyer and Rowan (1988) explained that in formal organizational structures, like the NCAA, social purposes are identified as technical processes,

rationalized to be crucial in purpose, and then enforced by strict mandated policies. This process of legitimizing is known as the myth of rationality (Meyer & Rowan, 1988).

Through this framework, the prevalent belief that recruiting violations are not occurring unless reported as NCAA violations has been rationalized. Next, NCAA recruiting rules have become highly institutionalized to the point where the policies become seemingly legal in power and extend beyond the control of individuals within the university (Meyer & Rowan, 1988). This institutionalization leads individuals to believe that recruiting actions cannot be changed within the organization and, much like Alabama, are coerced by the enforcement of NCAA rules to incite behavioral change. Despite this prevalent belief, undisclosed recruiting violations may occur without the knowledge of the NCAA.

Utilizing the myth of rationality as a framework, this largely exploratory study examines the nature of undisclosed NCAA recruiting violations. For this purpose, this study will investigate the prevalence of unreported recruiting violations and the institutional and individual factors that drive these ethical lapses (Kelley & Chiang, 2008) that occur within NCAA Division I Football Bowl Subdivision (FBS) institutions. First, extant literature pertaining to neoinstitutionalism is introduced and used as a frame to explain NCAA recruiting violations. This study draws upon the recruiting experiences of over one thousand current student-athletes in order to determine significant factors of unreported recruiting violations, outlined in the findings and implications sections. It is the desire of the researchers not only to build upon previous recruiting research, but to provide practical information to athletic administrators by identifying typological

patterns of unreported recruiting infractions in order to curtail future recruiting violations.

Literature Review

Institutionalism

The formal organizational structure of the NCAA utilizes mandated recruiting policies in order to legitimize social purposes and promulgate universal rules compliance. The NCAA is comprised of hundreds of educational organizations that direct resources to achieve prevailing ideals of ethical sportsmanship, but only monitor the outcomes of these allocations sufficiently enough to instill confidence outward confidence in its enforcement capabilities (Meyer & Rowan, 1978). These prevailing ideals become institutionalized through ritual classification of NCAA violations, thus giving assumptive meaning to the enterprise of NCAA rules enforcement (Goffman, 1967; Meyer & Rowan, 1978). In a similar vein, Galaskiewicz (1991) found that through constant efforts to institutionalize meanings and ideals (like NCAA rules) within an organization are effective in changing organizational behavior. Yet, isomorphic pressures in these formal organizations advance the legitimacy, perceived strength, universality of organizational action, and prestige of institutional rituals (Hess, 1999; DiMaggio & Powell, 1983) to seemingly avoid violations of organizational mandates, particularly in the NCAA (Cunningham & Avery, 2001). Thus, formal structures of many NCAA institutions may not reflect the demands of compliance with NCAA recruiting regulations, but rather is reflective of prevailing myths of the organizational environment (Meyer & Rowan, 1988) that in order to win and generate revenue

institutions (or representatives of institutions, like coaches) should covertly violate NCAA recruiting mandates (Coakley, 1990; Padilla & Baumer, 1994; Humphreys & Ruseski, 2006). The myth of rationality (Meyer and Rowan, 1988) is a critical element embedded within the concept of neoinstitutionalism.

Myth of Rationality

By implementing recruiting policies into their daily operations attempting to prevent precarious predicaments like the Alabama scandal, the NCAA has created a quasi-legal aura to impose its will based upon formal organizational structure. These regulations function through the underlying assumptions that rules are legal precedence and compliance is socially normal in the formal organizational structure (Meyer & Rowan, 1988). Particularly in educational formal structures, layers of bureaucracy are established in order to create an environment of power and authority that are highly institutionalized. Meyer and Rowan (1988) found that these formal structures lead to ideas and concepts being rationalized as legitimate structures and adopted as an integral part of the institution, or institutionalized. Rationalization and institutionalization lead to the two-part myth of rationality that permeates from formal organizational structures. These myths are ideas or concepts that are rationalized to be truth, when in reality they are constructed by two notable properties.

In the first property of the myth of rationality, formal organizational structures identify social purposes as technical in nature and are rationalized by enforcing these purposes through mandate (Meyer and Rowan, 1988). In the realm of athletics, the social purposes of intercollegiate athletics must coincide with social norms of the organization

(Santomeir, Howard, Piltz, & Romance, 1981). Acts that are “consensually defined as deviant by others” (Ermann & Lundman, 1978, p.17-18) serve to reinforce the need to adopt institutionalized rules, policies, and procedures to promote social purposes. In NCAA Division I (FBS) athletics, the primary beneficiaries of the promotion of these social norms are the universities, administrators, coaches and staff, and not student-athletes (Santomeir et al., 1981). Thus, it is prudent that multiple forms of institutional policy instruments are used in order to control outputs and behaviors of individuals within the formal organizational structure for the benefactors.

Alternative Policy Instruments

According to McDonnell and Elmore, there are general types of policy utilized in formal organizational structures each with unique qualities. The first policy instrument is mandates, which “are rules governing the action of individuals and agencies” (McDonnell & Elmore, 1987, p. 134). NCAA rules and regulations form mandate policy instruments, where the expected outcome is universal compliance with the established rules of the institution by all individuals within the institution regardless of capacity to perform compliant actions (McDonnell & Elmore, 1987). Mandates use coercion to affect performance by targeting disobedient individuals to receive sanctions for non-compliance (McDonnell & Elmore, 1987). The second instrument is inducement policy, or the transfer of “money to individuals or agencies in return for the production of goods or services” (McDonnell & Elmore, 1987, p. 136). Unlike mandates, inducements are expected to only yield short-term returns through production (McDonnell & Elmore, 1987), such as an incentive-laden coaching contract for winning conference

championships. Third, capacity-building policy instruments are “the transfer of money to individuals or agencies for the purpose of investments in future benefits” (McDonnell & Elmore, 1987). Capacity-building policy presumes that without the immediate investment of resources, future benefits will not be realized in the long-term (McDonnell & Elmore, 1987). Fourth, system-changing policies shift official authority among individuals within institutions. The intended outcome of system-changing instruments is to alter an ineffective system through changing reporting lines, terminating the employment of an individual, or even altering the distribution of funds other than authority (McDonnell & Elmore, 1987). By means of mandated policy instruments, the NCAA makes the social purposes in the recruiting process a technical set of rules and regulations to be institutionalized by its member institutions.

Mandates are critical dimensions within the myth of rationality sphere. Mandates in the form of codes, rules, and regulations become highly institutionalized, or socially accepted in an institution to the point where there is a belief that they are legal, and thus goes beyond the power of individuals within an organization (Meyer & Rowan, 1988). Reactively, athletic administrators, coaches, or boosters violate mandates (i.e. evade compliance) in order to meet organizational objectives of winning championships (Santomeir et al., 1981). Organizational deviance to a set of mandates may be committed by direct involvement or through omission if it occurs within a coach’s administrative subunit (Santomeir et al., 1981). In order for the behavior to be considered deviant, the dominant coalition (in this case, the NCAA) must be aware of the mandates that are institutionalized and either address the behavior with sanctions or ignore the behavior

(Santomeir et al., 1981). If deviant organizations are ignored, new managers within the organization may be apprenticed to participate in the deviant action and socialized to believe that such actions are a social norm (Sage, 1975; Santomeir et al., 1981). Thus, organizational deviance may occur with or without the knowledge of the NCAA (Santomeir et al., 1981), but individuals within the universities may know that recruiting violations are rampant. Isomorphic pressures of NCAA institutions may lead to uniformity in rules compliance management (Cunningham & Avery, 2001) and the propagation of the rationalized, institutionalized myth of rationality that rules violations are not occurring unless reported by the NCAA. The NCAA rules have been legitimized as the moniker to determine what athletic departments are deviant organizationally, but the formal organizational structure of NCAA rules enforcement may lead to undisclosed violations of recruiting mandates.

NCAA Recruiting Violations

Prior research suggests the makeup of the NCAA could be leading to organizational deviance with respect to intercollegiate athletics rules compliance (Santomeir et al., 1981; Sack, 1989; Sack, 1991; Humphreys & Ruseski, 2006; Padilla & Baumer, 1994). Ethical failures in the university environment transpire in athletics departments because stakeholders position personal needs above honesty (Kelley & Chang, 2007; Agle & Kelley, 2001; Howe & Moses, 1999). Other researchers claim the formal organizational structure of the NCAA acting as a classic economic cartel leads to undisclosed violations of NCAA rules (Fleisher, Goff, & Tollison, 1992; DeSchrive & Stotlar, 1996; Kahn, 2006; Grant, Leady, Zygmunt, 2008). Cunningham and Avery

(2001) found that athletic administrators in the NCAA strategically choose to manage their departments in a similar manner to others in the NCAA. Furthermore, NCAA-affiliated universities utilize the four types of alternative policy instruments in attempt to ensure that behavior coincides with the intended socially accepted outcomes of the institution. In the formal organization of the NCAA, mandates are the fundamental policy instrument utilized in NCAA recruiting and determine which of the policy instruments are permissible. These mandates are instrumental in seeking uniform behavior to NCAA rules, according to the functioning of a classic economic cartel (Fleisher et al., 1992; DeSchrive & Stotlar, 1996; Kahn, 2006; Grant et al., 2008). However, NCAA violations are increasing in frequency (Mahony, 1999; Jordan, Greenwell, Geist, Pastore, & Mahony, 2004; Clark & Batista, 2009a; Clark & Batista, 2009b) and, in response, the NCAA Committee on Infractions has decided to increase the severity of its sanctions to deter future violations (Wieberg, 2008). Despite the potential for increased sanctions and demanded compliance to mandates, there is financial incentive to violate NCAA regulations due to postseason revenue and ticket sales in men's basketball and football (Humphreys & Ruseski, 2006; Padilla & Baumer, 1994; Fleisher, Shughart, Tollison, & Goff, 1988). Santomeir et al. (1981) found that the reactive nature of NCAA rules enforcement leads to covert actions by coaches, athletic administrators, boosters, and prospective student-athletes that occur without the knowledge of the NCAA (Coakley, 1990; Sack, 1989; Sack, 1991).

Violations of NCAA recruiting regulations are occurring with and without the knowledge of university administration, athletic administration, and the NCAA. Sack

(1991) surveyed former student-athletes, playing in the NFL, and found that those who accepted impermissible cash benefits and inducements are most likely to come from a major conference and involve African-American prospects. However, this sample represents less than one percent of the student-athlete population in NCAA Division I (FBS) athletics (NFL Players Association, 2007). Also, Sack (1989) found that African-American student-athletes from a low socio-economic status did not believe it was improper to accept impermissible recruiting inducements in violation of NCAA *Bylaw 13.2*. Further studies of reported NCAA infractions found that 76.4% of the reported NCAA major recruiting infractions in Division I (FBS) are committed by Bowl Championship Series (BCS) conference teams with 63% occurring in the geographical regions of the South and Midwest (Clark & Batista, 2009a). Previous research has indicated that race, socio-economic status, geographic regions, and conference affiliation are correlated with under-the-table recruiting inducements (Sack 1991; Clark & Batista, 2009a; Clark & Batista, 2009b). While violations seemingly persist, few studies have taken a critical look at the current NCAA policy design regarding recruiting.

Highly institutionalized mandated policy functions optimally in circumstances when organizations have full capacity to comply and uniformity of behavior is needed (McDonnell & Elmore, 1987; Meyer & Rowan, 1988). Yet, as McDonnell and Elmore suggest, mandates can also trigger negative organizational behavior, such as organizational deviance. For instance, some organizations could see greater benefit to evading or avoiding compliance to mandates (e.g., long term financial payoffs for the institution). For this reason, this study examines the degree to which NCAA Division I

(FBS) universities might knowingly or unwittingly commit recruiting violations that go undetected by the NCAA and what factors drive the commission of these infractions.

Research Questions

Three research questions emerged from the extant literature to be addressed in this study.

1. How prevalent are unreported recruiting violations in NCAA Division I (FBS) athletic programs?
2. What are the types and severity of the unreported recruiting violations occurring?
3. What factors are typically involved in these various types of recruiting violations?

Methodology

Data Collection

Approximately 7,200 current student-athletes from each of the 11 Division I (FBS) conferences and over 16 sports were contacted through electronic mail for this study. The technique of criterion based (Kerlinger, 1986) stratified (Gall, Gall, & Borg, 2007) sampling procedure was used to select subgroups representative of the population of student-athletes in NCAA Division I (FBS) in terms of geographic location, conference affiliation, and sport. Over 1,700 student-athletes responded to the survey, with 1,588 workable surveys utilized in this study, yielding over a 22% response rate. The respondents consisted of approximately 54% females and 46% males with 61% of the student-athletes participating in athletics for a BCS conference affiliated university. Most of the athletes (76.4%) were starters or played the majority of each competition for

their respective teams and received a scholarship from the recruiting process. White, non-Hispanic student-athletes comprised the majority of participants (64.4%) and African American student-athletes were the second highest participant percentage (23.7%). Participants were from various geographic regions of the United States, with the geographic affiliations being evenly disbursed at approximately 20% in the South, West, Southwest, Midwest, and Northeast.

The survey was sent to student-athletes in three intervals during a three-week span. The respondents to the first interval would not be allowed access to take the survey a second time. This process was repeated for the second interval for student-athletes that responded to the first or second intervals. The third interval data was isolated in order to address non-response bias pursuant to the findings of Miller and Smith (1983). By comparing early to late respondents, similar statistical significance was found and is thus representative of entire population sampled and suggests considerable internal validity (Miller & Smith, 1983; Turner & Jordan, 2009). The student-athlete e-mail addresses were obtained individually through public records located on each institution's website student directory. Universities without public access to student-athlete e-mail addresses were omitted, thereby avoiding issues of private student information being divulged. If multiple students had the same name as the student-athlete, the student-athlete was omitted from the database to ensure the reliability of the data. Where public access to student-athlete e-mails was available, all identifiable student-athletes were surveyed.

Instrumentation

The survey instrument asked the student-athletes a series of questions regarding their recruitment prior to attending college which was designed from the recruiting rules in *Bylaw 13* of the *NCAA 2008-2009 Division I Manual*. In order to protect anonymity and encourage reliable data, student-athletes were not directly asked if they had committed recruiting violations. Rather, each student-athlete indicated when certain recruiting events transpired while they were in high school and whether or not recruiting enticements occurred during the recruiting process. The answers to each event or activity were analyzed by the time periods mandated by the NCAA rules to be permissible. Responses that occurred outside of the permissible range of the NCAA were coded into dichotomous categorical variables as a violation or not a violation. This questioning format in the survey provided consistent measures for participants, thus providing reliable data for analysis (Fowler, 1993). Participants were not asked to disclose their names, the name of their university, or other information that could directly link the individual to any particular violation that could jeopardize their NCAA eligibility.

Data Analysis

Dependant variables. Multiple facets of recruiting contacts and impermissible inducements were integrated into the survey. Student-athletes were asked when a coach first contacted them by telephone, e-mail, text message, or letter and if a coach had contacted them by telephone multiple times per week. If the student-athlete indicated that a telephone contact or letter contact occurred in their sophomore year or earlier,

were telephoned more than once per week, and/or were contacted by text message, these answers constituted a violation of *Bylaw 13.1.3.1 or 13.4.1.2*.

Cronbach's alpha levels for measures of contacts and evaluations were reliable at the .741 level. This process was repeated for impermissible inducement recruiting violations. Student-athletes were asked if they or a family member had received cash, loans, cars, a house, memorabilia (i.e. hats, clothing, bookstore items), or a job from a coach, booster, or staff member at a university that was recruiting them. If the student-athlete indicated that he or she had received such inducements, this was entered into a database as a *Bylaw 13.2.1.1* violation. Cronbach's alpha levels for reliability measures of offers and inducements were reliable at the .825 level.

Academic fraud during recruitment and official visit recruiting activities were also addressed in the survey. Student-athletes indicated whether or not they received assistance to complete online courses or had someone else take their ACT or SAT examinations in order to meet initial eligibility requirements (*Bylaw 14.02.10.1*) and make official on campus visits (*Bylaw 13.6.3*). An indication that there was impermissible assistance provided is academic fraud and considered unethical conduct pursuant to *NCAA Bylaw 10.1*. Current student-athletes were asked if any of the following recruiting activities occurred: whether or not special accommodations (e.g. hotel suites, jacuzzis, special signage in the room or hotel for the prospect) were given during an official visit in violation of *Bylaw 13.6.6*, if student-athletes were impermissibly forced to conduct a workout during their visit to show the coaches their athletic abilities (*Bylaw 13.11*), whether or not student-athletes were given excessive

entertainment money in cash over the value of \$30 per prospect in violation of several entertainment issues in *Bylaw 13.6.7*, and if a scholarship was impermissibly offered to a prospect while attending a summer camp or clinic (*Bylaw 13.12.1.3*). Furthermore, student-athletes were questioned as to whether or not they consumed alcohol or engaged in any sexual activity (e.g. consensual sex with students, adult entertainment, and/or strippers) while on an official visit. Although these institutional violations are not explicitly stated in *Bylaw 13.6.1*, these actions do constitute violations of institutional policies, underage drinking state laws, and possibly constitutional issues of sexual harassment or sex crimes. Cronbach's alpha levels for reliability measures of academic fraud, official and unofficial visits, and camps and clinics were somewhat reliable at the .541 level.

Independent variables. The responses of the student-athletes were analyzed by creating seven categorical variables, which included individual and institutional demographic data from the student-athletes. The categorical variables were tested for interaction based upon previous research. First, the conference affiliation of the university and prospective student-athlete were determined by the current construct of the NCAA Division I Football Bowl Subdivision. These conferences were further divided into Bowl Championship Series (BCS) conference affiliation (including the ACC, Big East, Big 10, Big 12, Pac 10, and SEC) and Non-BCS conferences (including Conference USA, Mid-American Conference, Mountain West, Sun Belt, and WAC). These conference affiliations were found to be statistically significant factors in major reported recruiting violations (Clark & Batista, 2009a). Second, geographical regions,

established by the United States Department of State and its Diplomatic Embassies (2007), were found to be statistically significant factors in reported recruiting violations (Clark & Batista, 2009a). These regions include the South, Mid-Atlantic, New England, Midwest, Southwest, and West. The third and fourth variables included the sex and sport of prospects demographics utilized in Clark and Batista (2009b). Fifth, racial demographics of prospects pursuant to Sack (1991) were collected and condensed into the dichotomous variable of white and minority (including African American, Hispanic/Latino, Asian American, Polynesian/Hawaiian, and Other). Sixth, the socio-economic status findings of Sack (1991) were utilized to collect financial data of the prospects. This data eventually created a dichotomous variable of above or below the national average family income of \$50,244 in 2007 from the United States Census (2007). The final variable included the aforementioned dependant variables, or categories of recruiting violations established by recruiting mandates in *NCAA Bylaw 13*.

Agresti (2002) suggests the use of hierarchical loglinear regression, which utilizes backward elimination of the interactions of multiple categorical variables to assess the appropriate model fit and which interactions between the seven categorical variables are statistically significant. The analysis met the assumptions of loglinear analysis where each independent variable cell must have an expected frequency greater than one and 20% of the cells may have less than 5 (Field, 2009). In this model, the hierarchical tests determined that the observed and expected frequencies predicted by the model were not significantly different from the data. From this analysis, multiple statistically significant interactions were found.

Findings

Scope of Unreported Violations

Unreported recruiting violations are occurring without disclosure to the NCAA, but the severity of the type of violation determines its prevalence. The frequency of these violations also depends upon the severity of the violation. Slightly over half of the sampled student-athletes were not involved in a recruiting violation. However, certain types of recruiting violations were considerably more prevalent than others. The most prevalent infractions occurred under the contacts and evaluation *Bylaw 13.1*, including the use of text messaging to contact prospects from *Bylaw 13.4.2*. Almost half of the sampled student-athletes received mail correspondence prior to the permissible time period, which could be construed as a minor (Level II) secondary violation (NCAA, 2009b). Prospects contacted by text message and receiving more than one phone call per week or being called by coaches in their Freshman and Sophomore years in high school occurred quite frequently. Because contacting a prospect is crucial to the development of relationships in the recruiting process, these latter two contact violations have been the focal areas of major infractions cases. Contacting prospects by telephone, text messaging, and letters impermissibly is rampant (see Table 5).

Offers and inducements recruiting violations are more severe (NCAA, 2009a), but not as prevalent as contacts violations with one glaring exception. Slightly over one-fourth of sampled student-athletes indicated that they stayed in overtly expensive hotel suites with personalized décor and gifts in the rooms during an official or unofficial visit despite *Bylaws 13.6.7.9* and *13.7.3*. However, student-athletes that indicated that they

Table 5
Unreported Recruiting Violations Frequencies

| Recruiting Violation Type | % of sample with violation | Severity of Violation | Type of Policy Instrument |
|---|----------------------------|------------------------|---------------------------|
| Letters sent too early | 49.7 | Secondary (LII) | Capacity-Building |
| Impermissible text messaging | 40.3 | Secondary (LI) / Major | Capacity-Building |
| Impermissible telephone call | 38.7 | Secondary (LI) / Major | Capacity-Building |
| Hotel inducement on Official Visit | 26.5 | Major | Capacity-Building |
| Impermissible entertainment funds on official visit | 14.7 | Secondary (LI) / Major | Capacity-Building |
| Alcohol Inducement | 11 | Major | Inducement |
| Scholarship offer during camp | 7.7 | Secondary (LI) | System-Changing |
| Tryouts on official visits | 5.9 | Secondary (LI) / Major | System-Changing |
| Cash inducement | 4.1 | Major | Inducement |
| Sexual activity inducement | 2.9 | Major + legal issues | Inducement |
| Car inducement | 1.6 | Major | Inducement |
| Loan inducement | 1.6 | Major | Inducement |
| Academic Fraud on ACT or SAT | 1.4 | Major | System-Changing |

Major= Causes a significant recruiting advantage

LI= Level I Secondary Violation, causes an inadvertent recruiting advantage and may involve loss of eligibility for student-athletes

LII= Level II Secondary Violation, causes an inadvertent recruiting advantage and does not involve the loss of eligibility for student-athletes

[Severity Determined by NCAA Level I and II Secondary Infractions List (NCAA, 2009a; 2009b)]

had received cash, gifts, memorabilia, cars, or other inducements occurred in less than five percent of the cases. Not surprisingly, these violations are also considered by the NCAA to be some of the most severe in NCAA athletics. Offers and inducements violations of *Bylaw 13.2* are the traditional under-the-table payments that were addressed by Sack (1991), but are not as widespread as previously reported.

Typology of Undisclosed Recruiting Violations

Seven categories of unreported recruiting infractions emerged as statistically significant from the analysis. Each category includes multiple interactions of institutional factors of organizational deviance and/or individual characteristics of prospects involved with undisclosed recruiting violations. It is important to note that several individual factors are greatly influenced by organizational deviance because the rules violations occurred based upon coaches instigating the recruiting violations. Evidence of organizational deviance is present through undisclosed recruiting violations that utilize alternative policy instruments (McDonnell & Elmore, 1987).

Contacts and evaluations violations. There were three significant interactions with unreported violations of NCAA recruiting contacts and text messaging bylaws. The significant combination of letter violations, text messaging violations, and telephone call violations involved female prospects with a family income above the national average of \$50,233 ($\chi^2 = 6.777$, $df=1$, $p<.01$). This significant interaction supports the establishment of a text message ban by the NCAA in order to curtail text messaging costs to highly recruited revenue sports prospects (Hosick, 2007). However, this has not curtailed the continued violations by female prospects that are able to afford text messaging plans.

Second, a significant interaction was found between phone and letter violations committed by coaches in football or men's basketball with a BCS conference affiliation (especially in the Big 10 Conference) involving prospects with an above average family income ($\chi^2 = 7.898$, $df=1$, $p<.01$). Third, letter violations by coaches from BCS conference universities involving female prospects with above average family incomes was another statistically significant unreported recruiting violation ($\chi^2 = 7.97$, $df=3$, $p<.05$).

Academic fraud. Two statistically significant interactions of unreported NCAA violations of academic fraud in recruiting emerged. The impermissible assistance of a coach or staff member altering an ACT or SAT score in a university men's basketball or football program with BCS conference affiliation, particularly the Southeastern Conference or SEC ($\chi^2 = 8.969$, $df=1$, $p<.01$) was the first significant interaction. Another three-way interaction emerged with impermissible assistance on the SAT or ACT with minority (not white) prospects that play football or men's basketball ($\chi^2 = 11.521$, $df=3$, $p<.01$).

Tryouts violations. Two-way interactions of unreported violations of prospective student-athletes being coerced to conduct a workout or tryout to display physical skill on an official campus visit emerged. Organizational deviance was found significant between universities with BCS conference affiliation and official visits tryouts violations ($\chi^2 = 4.692$, $df=1$, $p<.05$). Tryouts violations also significantly involved white prospective student-athletes ($\chi^2 = 15.136$, $df=3$, $p<.01$).

Offers and inducements. The first series of offers and inducement violations of *Bylaw 13.2.1.1* directly measured statistical significance of factors that influence under-the-table payments, previously investigated by Sack (1991). Prospects receiving cash and impermissible loans from boosters or institutional staff members of men's basketball or football and were from a BCS affiliated conference university ($\chi^2 = 12.823$, $df=1$, $p<.001$). Other factors of cash inducement interactions included minority prospects that play football or men's basketball ($\chi^2 = 14.583$, $df=3$, $p<.01$). Football and men's basketball programs at universities from the Southern region of the United States (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, or West Virginia) were also significant violators of cash inducement recruiting rules in *Bylaw 13.2.1.1* ($\chi^2 = 40.554$, $df=15$, $p<.001$). With statistical significance in both BCS affiliation and geographic region of the South, university membership in the SEC emerged as a significant factor ($\chi^2 = 12.823$, $df=1$, $p<.001$) for the violation of NCAA recruiting offers and inducement regulations.

Additional inducement interactions of gifts surfaced as significant (see Table 6). If prospect was given an automobile as an inducement, he would most likely play football or men's basketball ($\chi^2 = 4.580$, $df=1$, $p<.05$). The use of memorabilia, including university apparel, as an inducement involved prospects from non-revenue sports particularly women's track and field ($\chi^2 = 6.930$, $df=1$, $p<.01$).

Official visits. When the interest of a prospect and coach is mutual, the prospect will visit the university at the expense of the athletic program known as an official visit.

Table 6
Typology of Unreported NCAA Recruiting Violations

| Recruiting Violation Type | Type of Policy Instrument | Organizational Characteristics | Prospect Characteristics |
|---|---------------------------|--|---|
| Letters sent too early | Capacity-Building | BCS Conference | Female Above avg. income |
| Impermissible text messaging | Capacity-Building | Non-revenue | Female Above avg. income |
| Impermissible telephone call | Capacity-Building | BCS Conference Revenue Sport | Above avg. income |
| Hotel inducement on Official Visit | Capacity-Building | Non-revenue | Female White |
| Impermissible entertainment funds on official visit | Capacity-Building | BCS Conference Revenue Sport | Not White Below avg. income Female |
| Academic Fraud on ACT or SAT | System-Changing | BCS Conference Revenue Sport | Not White |
| Scholarship offer during camp | System-Changing | BCS Conference Revenue Sport | Male Below avg. income |
| Tryouts on official visits | System-Changing | BCS Conference | White |
| Cash inducement | Inducement | BCS Conference Revenue Sport Southern Region | Not White |
| Sexual activity inducement | Inducement | BCS Conference Revenue Sport | |
| Car inducement | Inducement | Revenue Sport | |
| Loan inducement | Inducement | BCS Conference Revenue Sport | Not White |
| Alcohol Inducement | Inducement | Non-revenue | White Above avg. income |
| Memorabilia inducement | Inducement | Non-revenue | |

The expenses that the university can spend on prospects for entertainment purposes are limited in monetary value. Impermissible entertainment expenses and the impermissible decoration of hotel rooms led to three significant interactions. Overspending on entertainment during an official visit for minority prospects that play football or men's basketball are most likely to occur at BCS conference affiliated universities ($\chi^2 = 10.056$, $df=3$, $p<.05$). However, impermissible entertainment expenses were also most likely to be given to female prospects from a low-socio economic family by a university with BCS conference affiliation ($\chi^2 = 3.965$, $df=1$, $p<.05$). In contrast to impermissible official visits expenses, hotel inducements were most likely given to white female prospects that participate in non-revenue sports ($\chi^2 = 10.658$, $df=3$, $p<.05$).

Camps and clinics. Although the NCAA mandates that the purpose of sport camps and clinics offered by university athletic programs is “designed to improve overall skills and general knowledge in the sport” (*NCAA Bylaw 13.12.1.1.2*), camps and clinics have become a covert means of coaches recruiting prospects (Feldman, 2007). The impermissible offer of a scholarship to prospects at a institutional sport camp or clinic furnished three, three-way interactions of statistical significance. The first interaction involves the scholarship offer at a camp or clinic to a male prospect by a BCS conference affiliated institution, particularly from the Big 12 and Pac 10 conferences ($\chi^2 = 9.002$, $df=1$, $p<.01$). Furthermore, football and men's basketball programs with BCS conference affiliation offering scholarships at camps was also significant ($\chi^2 = 10.363$, $df=1$, $p<.001$). Third, male prospects with below average family income were

more likely to receive an impermissible scholarship offer at a camp ($\chi^2 = 4.989$, $df=1$, $p<.05$).

Institutional violations of alcohol and sex inducements. The mandates of the NCAA do not specifically prohibit the underage consumption of alcohol or the use of sex (e.g. strippers, sexual intercourse with current students, adult entertainment, etc.) by prospects on official visits, but institutional policies of universities condemn such recruiting practices. Furthermore, underage drinking actually violates alcohol consumption laws and demonstrates that actual legal issues are not the major concern of NCAA recruiting rules. The consumption of alcohol during an official visit was significant with prospects whose families had below national average income, white, and the prospect played a non-revenue sport ($\chi^2 = 8.277$, $df=3$, $p<.05$). Sex inducements on an official visit were utilized by football and men's basketball at universities that had BCS conference affiliation ($\chi^2 = 4.215$, $df=1$, $p<.05$).

Discussion

Each of the seven types of unreported recruiting infractions emerged as statistically significant from the analysis. The interactions of the variables in each unreported recruiting violation type elucidates to a degree why such violations occur. Furthermore, the typology of unreported recruiting violations may shed light on which prospects might be more likely to be drawn into unethical situations of institutional violations of *NCAA Bylaw 13* without violations being reported to the NCAA.

Contacts and evaluations violations. The three significant contacts and evaluations interactions display the importance of above average socio-economic status

in contacts and evaluations unreported violations. Regardless of whether these violations involved male revenue sports, female prospects, or BCS conference affiliation, the common significant factor in all three types of contacts and evaluations unreported violations targeted prospects with above average family income.

Recent technological advancements in cellular telephones and text messaging may be costly for prospects and their families. The NCAA text message ban contained in *Bylaw 13.4.1.2* was created to alleviate the financial burden placed upon the prospect. However, if it is not a financial burden to the prospect, evidently text messaging and phone calls violations persist. What appears to be the result of a capacity-building policy instrument, the investment of immediate technological resources by coaches in contacts and evaluations seemed to have led to greater incidences of unreported violations. However, due to the lack of clear guidance and explicit limitations, which a mandate would offer, confusion and ambiguity are caused leading to greater variability in behavior.

Academic fraud. Academic fraud is a serious charge that is typically found in major infractions cases, when discovered by the NCAA. It is important to note that academic fraud of test scores required to fulfill initial eligibility requirements is most likely to involve minority prospects in the revenue sports of men's basketball and football ($\chi^2 = 11.521$, $df=3$, $p<.01$) at major BCS conference schools ($\chi^2 = 8.969$, $df=1$, $p<.01$), particularly the SEC. Thus, some revenue sports coaches at BCS conference schools do not value the testing requirements mandated for prospects to meet initial eligibility standards of the NCAA. Furthermore, they target minority prospects under the

assumption that either the prospects are not capable of successfully passing the standardized tests, or simply place their athletic abilities above the academic welfare of the prospect. Thus, coaches seek to subvert the academic system through an *informal* system-changing policy in providing impermissible testing assistance.

Tryouts violations. In tryouts unreported violations, coaches in BCS affiliated conferences (especially the Big Ten) question the athletic talent of White prospects. This contrast between questioning the academic abilities of minority prospects and the athletic ability of White prospects promulgates stereotypes of minority superiority in athletics and white intelligence. Although questioning the talent of prospects is common in the recruiting process, a significant number of coaches utilize system-changing policy instruments by altering the process of evaluating talent by forcing White prospects to conduct a tryout during an official visit.

Offers and inducements. The contrast between the cost of inducements between revenue sports and non-revenue sports is astounding. While men's football and basketball prospects are more likely to be offered cash, loans, and cars, non-revenue sports prospects receive less expensive inducements such as memorabilia. Applying McDonnell and Elmore (1987), inducement policies are utilized by boosters and/or university coaching staff members to assert the production of goods and services in football or men's basketball is valued more than in non-revenue sports. Furthermore, revenue sports ($\chi^2 = 14.583$, $df=3$, $p<.01$) are a key factor in cash inducement ($\chi^2 = 12.823$, $df=1$, $p<.001$) and car inducement violations ($\chi^2 = 4.580$, $df=1$, $p<.05$), where prospects that are not White ($\chi^2 = 14.583$, $df=3$, $p<.01$) are more likely to be offered cash

inducements and impermissible loans and White student-athletes were not significantly offered inducements. Organizational factors of inducement policy in Division I (FBS) recruiting revealed that universities with BCS conference affiliation are more likely to be involved in cash inducements and impermissible loans to prospective student-athletes, particularly in the geographic region of the South. This finding is particularly interesting to note as ESPN recently agreed to the broadcast rights of the SEC valuing over \$200 million (ESPN, 2009). The heightened publicity and financial backing in revenue sports located in the South serve to agitate *Bylaw 13.2* offers and inducements violations. On the other hand, the use of memorabilia, including university apparel, as an inducement involved prospects from non-revenue sports particularly women's track and field ($\chi^2 = 6.930$, $df=1$, $p<.01$). Therefore, coaches and institutions utilize lower costing impermissible inducement policies for non-revenue sports because the overall value of the sports are perceived as less influential.

Official visits. The quality of entertainment on a recruiting visit may alter the decision of a prospect. Overspending for entertainment on official recruiting visits is a counterbalance by some coaches to address this concern. Thus, impermissible entertainment inducements are geared toward minority prospects in major college football or men's basketball programs or low socio-economic female prospects at a BCS conference affiliated institution. The desire to obtain a top recruit in a revenue sport or female prospect that may be awestruck by lavish entertainment could explain why coaches may covertly violate entertainment spending limitations. However, inducements where the decoration of a hotel room targeted prospects that are female, White, and play

non-revenue sports. Conjecturing that hotel inducements are perceived to be appreciated more by White prospects and entertainment inducements are more appreciated by prospects that are not White. Both entertainment expense violations and hotel violations on official visits represent capacity-building policy instruments that offer inducements for the promise of future production as a student-athlete to a prospect.

Camps and clinics. Statistical significance indicates that undisclosed, impermissible scholarship offers are most likely to occur at a camp or clinic if the prospect comes from a low-income family, plays football or men's basketball, and the institution offering is most likely to have BCS conference affiliation. Camps and clinics are not for the purpose of recruiting (*Bylaw 13.12*). Coaches, however, may permissibly offer scholarships to prospects after the conclusion of the camp or clinic, but not during the camp or clinic. The findings of this study indicate that BCS affiliated revenue sport coaches (especially in the Big 12 and Pac 10) routinely offer scholarships to prospects during camps and clinics. This covert action alters the mandated scholarship offer limitations of the NCAA where prospects receive capacity-building policy instruments.

Institutional violations of alcohol and sex inducements. Big-time college football and basketball programs were more likely to use sexual inducements to entice prospects to commit to their university athletic program. As such, it is presumed that revenue sports prospects are more likely to be enticed to play for a university that offers opportunities for sexual encounters from college co-eds or adult entertainment. This significant interaction may also lead to future studies of the perceived sexual dominance of revenue sports athletes. On the other hand, alcohol inducements were significantly

used to lure low-income, White, non-revenue sport athletes to attend a university. Although traditional inducement policies utilize money as the medium of exchange, organizational deviance through inducement policies by BCS conference affiliated institutions excite big-time revenue sports recruits through sex and lower profile, white, non-revenue prospects through alcohol.

Implications

The formal organization of NCAA Division I (FBS) institutions use various forms of alternative policy instruments to violate NCAA recruiting mandate policy. This has led to undisclosed recruiting violations occurring without the knowledge of the NCAA and its member institutions. Nevertheless, the NCAA continues to mandate that athletic administrators, especially athletic compliance staff, to monitor, educate, and seek to prevent recruiting violations from occurring within their respective athletic programs. Despite these efforts for rules compliance, organizational deviance to NCAA recruiting regulations resumes. McDonnell and Elmore (1987) state that mandates as policy types function optimally in circumstances when organizations have full capacity to comply and uniformity of behavior is needed. Yet, organizational characteristics from the undisclosed recruiting violations typology indicate that there are areas where increased compliance resources may be needed and where policy development could be enhanced by the NCAA. Chief among these organizational characteristics, this study confirms that BCS conference affiliation is a significant factor in *most* undisclosed recruiting violations, similar to reported major recruiting violations found by Clark and Batista (2009a). Further, it is pertinent to understand the characteristics of alternative

policy instruments utilized in undisclosed recruiting violations to determine effective NCAA enforcement that may deter future recruiting violations.

In terms of capacity-building policy, undisclosed recruiting violations transpired more frequently, but were less severe than other alternative policy instruments. The purpose of capacity-building policy is to invest resources for the purpose of future human capital (McDonnell & Elmore, 1987). Investing the costs of sending multiple hard copy letters, text messages, telephone calls, and the costs of hotel suites or entertainment funds are specifically to lure the prospect to eventually sign with the university. Capacity-building policies were mostly used by BCS conference affiliated men's basketball and football programs targeting racial minority prospects. Affluent female prospects were also targets of capacity-building policy resulting in undisclosed violations by non-revenue BCS affiliated universities, with the exception of less affluent female prospects in impermissible entertainment monies on official visits. According to Dumond et al. (2008), these recruiting mediums were not significant factors for recruits choosing a university. Thus, capacity-building policies in recruiting have a distant or ambiguous effect on intercollegiate athletics recruiting. Furthermore, capacity-building policies that result in undisclosed violations transpired more frequently, particularly contacts violations by phone, letter, and text message. These violation types are, for the most part, considered Level II secondary infractions—the lowest severity of a recruiting violation stipulated by the NCAA (NCAA, 2009). With the low-risk, low-reward nature of undisclosed recruiting violations utilizing capacity-building policy, organizational deviance may occur due to lack of knowledge regarding, complexity of, or blatant

disregard of *NCAA Bylaws 13.1, 13.6, and 13.4* mandates by recruiters. In order to determine the actual knowledge of individuals recruiting for the universities, the NCAA mandates that coaches must successfully complete a recruiting examination. However, Jubenville, Goss, and Wright (2009) found that the current construct of the NCAA recruiting examination does not prevent reported recruiting violations. Suggesting that coaches may be cognizant of the recruiting rules, but because of the isomorphic pressures of widespread violation of the mandates organizational deviance and contacts violations continue.

Undisclosed recruiting violations that attempted to subvert the rules through quasi system-changing policy instruments are less frequent in occurrence, yet more severe than capacity-building. McDonnell and Elmore (1987) found that system-changing policies function under the rationale that increased efficiency may enhance production. BCS conference affiliation was a significant factor in all system-changing undisclosed recruiting violations. These violations were directed toward racial minority football or men's basketball players, with the exception of forcing white prospects to prove their elite talent on an official visit. Efficiency of needing a certain test score for meeting initial eligibility requirements, cutting down on future evaluations of prospects, or having to travel to extend a scholarship offer in-person are all outcomes of these system-changing actions. NCAA mandates regarding academic fraud are noted as among the most severe, by specifically delineating this action as unethical pursuant to *Bylaw 10.1 (h)* alongside other unethical issues such as utilizing banned drugs. Although scholarship offers at camps and tryouts on official visits are not listed as unethical in

Bylaw 10.1, the NCAA does list these violations as more serious Level I secondary institutional infractions that could combine to form a major infraction (NCAA, 2009). Although academic fraud is one of the most severe violations, not all system-changing undisclosed violations are as severe as inducement policy.

In the area of policy inducements, some of the most severe violations of NCAA mandates transpire, but occur less frequently. This form of undisclosed recruiting violation displays a disturbing dichotomous trend of racial implications and importance of revenue sports. BCS conference affiliation in men's basketball and football programs located in the Southern geographic region of the United States targeting racial minority prospects indicates that racism abounds in the offering of inducements. On the other hand, White or non-revenue sports prospects were offered inducements of alcohol or memorabilia as opposed to cold-hard cash, cars, strippers, or loans to family members. These undisclosed inducement violations are also considered unethical and rank among the most severe of NCAA violations (*Bylaw 10.1 (c)*). While inducement violations occur less frequently than all other violations, but academic fraud, organizations target prospects based upon the value of financial return which can be produced by an inducement policy. As such, racial minority prospects in big-time college football or basketball programs are objectified by inducement policy organizational deviance through undisclosed recruiting violations. Whereas, the financial return of non-revenue prospects leads to inducements of alcohol and memorabilia that are minimal in cost comparative to under-the-table payments. This study confirms that recruiting

inducements follow the findings of Sack (1991), but occur less frequently than previously reported.

To facilitate the curtailing of future recruiting violations, this study has identified what organizational deviance of recruiting mandates is occurring and not necessarily being reported by the NCAA. Fleisher et al. (1988) found that increased sanctions reduced the frequency of NCAA violations. However, this may not necessarily reduce the total number of undisclosed recruiting violations. If increased sanctions are to be enforced, the NCAA must increase sanctions tactically in the policy instruments that involve more severe violations. Therefore, increased sanctions should focus upon inducement policy instruments and the system-changing instrument of academic fraud. Because the NCAA does not create law and cannot punish prospects and coaches by law, the NCAA must utilize the power of exclusion to deter individuals from violating NCAA recruiting mandates. This may be accomplished through loss of eligibility (for prospects), the use of the show-cause order (for coaches), game or season suspensions (for prospects and coaches), and restricting revenue streams of post-season competition or television appearances (for institutions). Clearly, the current enforcement efforts of the NCAA are not curtailing undisclosed recruiting violations. The University of Memphis sanctioned for a major recruiting infraction involving inducements and academic fraud, and unethical conduct. The seriousness of these violations led to Memphis being forced to vacate all victories during a successful men's basketball season trip to the Final Four, raising the question of the effectiveness of these sanctions,

The penalty is basically to tell us it never happened. I was there [at the Final Four]. I saw it. So did 43,257 other people in San Antonio and millions more on television. The NCAA can mandate a whole lot of things with that gigantic rulebook. It cannot...control minds (O'Neil, 2009).

In another academic fraud case, the NCAA ruled that Florida State must vacate all wins from its football program in 2008 leaving Coach Bobby Bowden further from being the all-time most-winning football coach. Furthermore, the NCAA did not find the involvement of any coaches in the infraction (ESPN, 2009). Legendary coach Joe Paterno criticized the NCAA's enforcement by stating,

The NCAA is going to do what it's going to do, but I would hope they would not take away 10 or 12 wins away from him. I don't think that's fair. He coached the team he had; they played against people, and they won. They ought to be wins for them (ESPN, 2009).

Similar ineffective enforcement by the NCAA was used against Michigan when a major recruiting infraction occurred during the "Fab Four" Era. Effective enforcement would prevent prospects from playing after committing a recruiting violation. It would prevent clandestine coaches from being able to coach in multiple games by suspension or a show-cause order for offering inducements or opportunity for academic fraud. It would penalize institutions that harbor organizational deviance by utilizing inducement policy instruments to violate NCAA mandates. While increased sanctions may be needed to curtail future undisclosed recruiting violations (Fleisher et al., 1988), it would be more

appropriate to increase sanctions against prospects, coaches, and organizations utilizing inducement policy instruments to violate NCAA recruiting mandates.

Limitations

Much like any study, this work has its limitations. First and foremost, the nature and sensitivity of disclosing recruiting infractions poses a serious threat to the reliability of the data. The data collection process ensured the protection of the anonymity of the participants and the measurement instrument focused upon the recruiting experience as opposed to overtly asking for confessions of recruiting infractions. However, not all student-athletes in NCAA Division I (FBS) athletics were sampled in this study. While a criterion based, stratified sample was sought, the convenience of finding reliable and functional electronic mail addresses limited the complete sample the authors would have preferred to obtain. Also, the use of electronic survey has both its strengths and weaknesses. Electronic survey provided the opportunity to conduct this research with thousands of participants, but also may have eliminated some participants that would dismiss opening electronic mail from individuals with whom they are not acquainted.

Future research should obtain similar information from coaches and boosters that offer inducements to prospects. By obtaining this information, it could benefit athletic administrators to be able to understand attitudes and behavior of coaches that could lead to recruiting violations. Furthermore, it could assist athletic administrators in the hiring of coaches that comply with NCAA recruiting mandates. Additionally, future research should explore alternative methods to investigating the complexity of policy systems similar in scope to the NCAA. Based on the findings of this research, specific policies

layered underneath a larger policy framework yielded varying characteristics and outcomes. Minimal research has been devoted to examining the interaction of various policy types and their effectiveness in varying policy contexts.

Conclusion

Despite the mythical belief that the only recruiting violations that are occurring are found by the NCAA, this study found that there are undisclosed recruiting violations transpiring in NCAA Division I (FBS) athletics. The results of this analysis identify patterns of ethical lapses that occur during the recruiting process of many sports, which are not reported or found by the NCAA. Such violations suggest that the current construct of the Bowl Championship Series conference affiliation may be the most significant indicator of institutions committing more recruiting violations than Non-BCS conference universities. Undisclosed recruiting violations formulated a statistically significant typology consisting of seven categories. These types of violations were committed through violations of alternative policy instruments (McDonnell and Elmore, 1987). The most severe undisclosed recruiting violations, offers and inducements, exploited inducement policy instruments to violate *NCAA Bylaw 13.2.1.1* and also occurred the least frequently as a typology. On the other hand, capacity-building policy transpired the most frequently and was utilized in contacts and evaluations, camps and clinics, and official visits undisclosed recruiting violations. System-changing alternative policy instruments were integral in undisclosed violations of tryouts, camps and clinics, and academic fraud. The typologies of academic fraud and offers and inducements are considered the most severe recruiting violations and are categorized by mandate as

unethical conduct pursuant to *NCAA Bylaw 10.1*. If NCAA Division I (FBS) athletic administrators seek to curtail future recruiting violations, they should focus monitoring efforts and resources in curtailing undisclosed violations of inducement policy instruments and the system-changing policy of academic fraud. Furthermore, the myth of rationality may continue to propagate unless NCAA enforcement equitably penalizes prospects, coaches, and institutions for violations of NCAA recruiting mandates.

CHAPTER IV

UNIVERSITY PRESTIGE AND INTERCOLLEGIATE ATHLETICS RECRUITING:
A CASE STUDY OF ECONOMIC AND ADMINISTRATIVE FACTORS OF NCAA
INSTITUTIONAL CONTROL

Intercollegiate athletics is at a crossroads where standards of higher education, big-time business costs and revenue, passionate fans and donors, and ethical practices of NCAA rules compliance collide. In many cases, the ideals from one facet may contradict the values of another. Instrumental to the success of an athletics program is ability of a university to recruit highly gifted prospective student-athletes (Cunningham & Dixon, 2003; Chelladurai & Reemer, 1997). The financial impact of talented recruits may generate up to \$1 million in annual revenues in men's basketball (Brown, 1994) and \$500,000 in football (Brown, 2001). As such, recruiting has become a measure of success for coaches (Cunningham & Dixon, 2003) and the "lifeblood of [an athletics] program" (O'Neil, 2008). It is no surprise that recruiting advantage is foundational to the definition of an NCAA violation (*NCAA Bylaw 19.02.2.1*) and that violations of NCAA recruiting rules are the most prevalent form of NCAA infraction (Clark & Batista, 2009a). This study utilizes an instrumental case study of a major Division I Football Bowl Subdivision (FBS) university to advance the understanding of institutional control over NCAA rules compliance programs, the economic climate that may challenge institutional control, and seek to establish guidelines as to how future recruiting violations may be curtailed.

This work progresses by reviewing the extant literature of the institutional and economic research of the NCAA. The multilevel theory used to conceptually frame this study is then introduced, providing the structure to the methodology employed in this study. Next, the methodological process of this instrumental case study design is further elucidated leading to the findings, discussion and conclusion of this research.

Literature Review

Corruption in intercollegiate athletics can lead to financial, institutional, and academic harm that may jeopardize the reputation of a university and its constituents (Grimes & Chressanthis, 1994; Hughes & Shank, 2008; Kihl, Richardson, & Campisi, 2008; Brewer, Gates, & Goldman, 2002). Many ethical failures in the university environment transpire in athletics departments because stakeholders position personal needs above honesty (Kelley & Chang, 2007; Agle & Kelley, 2001; Howe & Moses, 1999). The repercussions of such failures may lead to increased financial sanctions by the NCAA (Winfree & McCluskey, 2008; Wieberg, 2008) and a decline in donor activity to the university found in violation of NCAA rules (Rhoads & Gerking, 2000). Nevertheless, NCAA violations are increasing in frequency (Mahony, Fink, & Pastore, 1999; Jordan, Greenwell, Geist, Pastore, & Mahony, 2004; Clark & Batista, 2009a) and the NCAA Committee on Infractions has reactively decided to increase the severity of its sanctions to deter future violations (Wieberg, 2008). Despite the ability of NCAA member institutions to reduce the financial impact of NCAA sanctions by self-sanctions and enforcement (Winfree & McCluskey, 2008), there is greater financial incentive to violate NCAA rules because the violations may lead to increased winning percentage,

ticket sales, and postseason revenues (Humphreys & Ruseski, 2006; Padilla & Baumer, 1994; Fleisher, Shugart, Tollison, & Goff, 1988). Therefore, some problematic financial benefits may exist for rules violators, necessitating an understanding of the economic principles that drive intercollegiate athletics.

Economic Principles of NCAA Athletics

The NCAA is an example of a classic economic cartel (Fleisher, Goff, & Tollison, 1992; Kahn, 2006; Grant, Leady, Zygmunt, 2008; DeSchriver & Stotlar, 1996) whose member institutions function economically as higher education institutions found in Bowen's Cost Theory of Revenue (1980). A cartel is an economic collusion where firms in the marketplace cooperate to control production and sales in order to maximize profits (Kahn, 2006; Grant et al., 2008). The three challenges presented to an economic collusion are: a) agreement on the appropriate actions of the group, b) preventing cheating, and c) controlling entry into the group (Grant et al., 2008). The main assumption of the cartel theory is that NCAA member institutions are profitable, which only 5% of all Division I institutions have accomplished from 2004 to 2008 (Kelderman, 2008). Therefore, the NCAA does not act as a true economic cartel seeking to restrict competition and maximize profits (Kahn, 2006) because the focus is upon revenue generation. This aspect is foundational to Bowen's Cost Theory of Revenue, where institutions of higher education will expend all its revenues in pursuit of the dominant goals of educational excellence, prestige, and influence (Bowen, 1980). Thus, each institution of higher education raises all the money it can in order to spend all it raises with the cumulative effect being increased fiscal inefficiency (Bowen, 1980). While

business cartels seek to maximize profits (Fleisher et al., 1992; Kahn, 2006; Grant et al., 2008), institutions of higher education seek to obtain prestige through increasing revenues in order to spend it all (Bowen, 1980). This explains why NCAA universities will expend exorbitant revenues upon lavish athletic facilities in order to win championships. Therefore, NCAA member institutions are fixed in a divergent path between cartel behaviors of maximizing profits and pursuing institutional prestige of winning championships by spending all of the money that it raises. Therefore, a tenuous relationship between intercollegiate athletics' pursuit of championships and the educational institution's pursuit of academic prestige collide on each campus of NCAA member institutions.

The Principle of Institutional Control

The integrity and prestige of the University also rests upon the institutional control of its athletic compliance program. Every NCAA institution is subject to the rules established by the NCAA and its member institutions. Chief among these rules is the principle of institutional control, which refers to the administrative control that university administration has to prevent the violation of NCAA regulations. Former University of Michigan President, James Duderstadt (2003) stated that "There is no more serious accusation in a rules violation investigation by the NCAA Infractions Committee concerning intercollegiate athletics than a conclusion that the university has lost 'institutional control' of its athletic program" (p.231). Institutional control is a process, a system, and a set of values and expectations within an institution to assure that rules violations are prevented before they occur (Duderstadt, 2003). It is a proactive process of

prevention, rather than a reactive response to occurrences. Furthermore, the NCAA mandates that the university president “has ultimate responsibility and final authority for the conduct of the intercollegiate athletics program” (*NCAA Bylaw 6.1.1*), which includes budgetary and fiscal control, as well as responsibility to control the actions all staff, coaches, student-athletes, and boosters (*NCAA Bylaw 2.1.2*). Members of the institution’s faculty may also assert institutional control (*NCAA Bylaw 6.01*), particularly through a selected member known as the faculty athletic representative (*NCAA Bylaw 6.1.3*). Institutional control is regulated through various forms of alternative policy instruments.

Institutional control utilizes some of the four types of alternative policy instruments, which are the mechanisms that transform substantive policy goals into practical application by attempting to ensure that behavior coincides with the intended outcomes of the institution (McDonnell & Elmore, 1987). Alternative policy instruments include mandates, inducements, capacity-building, and system- changing (McDonnell & Elmore, 1987). First, mandates “are rules governing the action of individuals and agencies” (McDonnell & Elmore, 1987, p. 134). NCAA rules are forms of mandate policy instruments, where the expected outcome universal compliance with NCAA rules by all individuals responsible under institutional control (McDonnell & Elmore, 1987). Second, inducements are the transfer of “money to individuals or agencies in return for the production of goods or services” (McDonnell & Elmore, 1987, p. 136). The expected effect of inducements is short-term returns through production (McDonnell & Elmore, 1987), such as an institution’s contractual financial incentives for coaches winning

conference championships. Third, capacity-building policy instruments are “the transfer of money to individuals or agencies for the purpose of investments in future benefits” (McDonnell & Elmore, 1987). Capacity-building policy presumes that without the immediate investment of resources, such as universities building the state-of-the-art facilities, future benefits will not be realized in the long-term (McDonnell & Elmore, 1987). Fourth, system-changing policies shift official authority among individuals within institutions. The intended outcome of system-changing instruments is to alter an ineffective system through changing reporting lines, terminating the employment of an individual, or even altering the distribution of funds other than authority (McDonnell & Elmore, 1987). Mandated educational policy is critical to the enforcement of NCAA recruiting rules.

One of the greatest threats to institutional control in Division I (FBS) institutions is the violation of NCAA recruiting rules. Over 70% of all reported NCAA major violations in Division I Football Bowl Subdivision (FBS) were related to the recruitment of prospective student-athletes (Clark & Batista, 2009a). In fact, the definition of a violation and the categorization of its severity pertain to recruiting. Secondary violations (less severe) is an inadvertent action that “provides a recruiting advantage” (*NCAA Bylaw 19.02.2.1*), whereas major violations (severe) provide a “significant recruiting advantage” (*NCAA Bylaw 19.02.2.2*). Consequently, recruiting violations are underpinning ethical lapses in intercollegiate athletics because recruiting is the method of controlling inputs into the university (Fleisher et al., 1992; DeSchriver & Stotlar, 1996; Kahn, 2006; Grant et al., 2008). Couple these lapses with the financial

contradiction that there is financial incentive to violate NCAA rules (Humphreys & Ruseski, 2006; Padilla & Baumer, 1994; Fleisher et al., 1988), the institutional system and dynamics that influence this behavior must be understood to prevent future recruiting violations. The purpose of this study is to examine the institutional and individual factors that lead to institutional control pertaining to recruiting mandates at a NCAA Bowl Championship Series (BCS) affiliated conference institution of higher education.

Conceptual Framework

Because organizations are faced with various levels of authority that influence action, advocate the use of multilevel theoretical analysis for a complete institutional analysis from various perspectives (Klein & Kozloski, 2000; Cohen, Moffitt, & Goldin, 2007). Multilevel theory specifies the relationships that exist among various levels of an organization, which may come from a top-down perspective, meso-level, or bottom-up perspective. With the intent to capture the full extent of the multilevel approaches, interviews were conducted with key figures of BCS University and athletic department. The top-down perspective asserts that the policies and procedures of an organization can shape the actions of individuals within the organization (Kanter, 1977). Thus, the University President was interviewed with the purpose of explicating the attitudes, policies, procedures, and relationships among the university administration and athletics. The Athletic Director (AD) was also interviewed in order to understand the issues of greatest concern, policies, procedures, and attitudes within the athletic department as a whole and specifically issues of athletic compliance. Also, the Faculty Athletic

Representative (FAR) was interviewed to elucidate the faculty perspectives and expectations on the athletic department. These three interviews represent the top-down view from the institutional administrative standpoints, as policies and procedures as well as the burden of institutional control that rest heavily upon the University President, FAR, and AD.

From the bottom-up perspective, individuals within the organization can influence the policies and procedures of the organization (Kanter, 1977). Klein and Kozloski (2000) found that, in order to capture the entire scope of the organization, both the top-down and bottom-up processes should be presented. Therefore, the bottom-up approach was addressed by interviewing two coaches and a booster from BCS University, as they enact recruiting policies and procedures from the NCAA and institution. The coaches were selected from the men's football and basketball teams, as these sports represent the most likely to commit major recruiting infractions (Clark & Batista, 2009b) and a representative of athletics interest, or booster, of the respective institution was interviewed with the purpose of understanding the assortment of expectations placed upon the athletic department in conjunction with financial donations to the athletic department. This perspective utilizes the bottom-up approach to examine the influence a booster can have on the athletic department and university as a whole and the actions, feelings, and pressures of recruiting on coaches.

Lastly, individuals within an organization that are caught between the top-down and bottom-up perspectives form the meso-level perspective (Kanter, 1977). The meso-level provides a unique relationship where policies and procedures may be shaped by

individuals within an organization, but also asserts that policies can shape the actions of individuals (Kanter, 1977). As such, the Director of Athletic Compliance was interviewed in order to understand the specific implementation of institutional policies and procedures, directives from the University President and AD, collaboration with the FAR, and successful strategies implemented to prevent recruiting violations. This interview and other data collected represent the meso-level, or the individual caught in the middle of the top-down and bottom-up perspectives, of intercollegiate athletics at BCS University. This study utilizes the multilevel theoretical approach through qualitative analysis of individuals from the top-down administration, meso-level administration, and bottom-up levels of coaches and boosters in a Division I (FBS) BCS-affiliated University. The methodology used to carry out this study will be discussed next with a particular focus on the research design, setting, and data collection and analysis procedures.

Research Methodology

This study utilized an instrumental case study design in order to address the issues of how institutional control is practiced and why institutions assert this control. In particular, Stake (1995) focused on a qualitative concentration on a case, and discussed how researchers are engaged in an instrumental case study if a particular case is examined with the major goal of providing insight into some important, broader issue (e.g., institutional control in big-time college sport). To be sure, the particular case under study is analyzed in depth, but the ultimate goal is to pursue the broader, external issue at hand. In this regard, the particular case could be viewed as typical of other cases or

not; but again, the goal is to utilize the study of the case as a tool for gleaming insight into the bigger issue. Therefore, in our qualitative case study research, we sought to explore the relationships and actions that assert institutional control in one big-time college athletic department; the ultimate goal was to understand the administrative and economic factors that might affect how big-time college sport programs approach and deal with the issue of institutional control.

Pursuant to the construct of institutional authority mandated by the NCAA, a purposive sample of individuals was selected at one NCAA Division I (FBS) BCS-conference affiliated university. This particular institution was selected because the University administration altered its own reputation from a checkered past of multiple major recruiting violations to an ethical and compliant institution. Additionally, the institution is a large, public university with BCS-conference affiliation and is located in the Southern region of the United States, which is known for being the most likely to commit a reported NCAA major recruiting infraction (Clark & Batista, 2009a). In order to protect the identities of the informants, each individual will be referred to throughout this work by position title and the University will be given the pseudonym BCS University.

Data Collection

Data were collected through semi-structured interview methods, sample itineraries of on-campus recruiting visits, and official institutional recruiting documents and mission statements. By including multiple sources of data, this work utilizes triangulation in order to present multiple university perspectives for multilevel

theoretical analysis (Mathison, 1988). The informants were contacted and interviewed in-person for approximately 45 minutes in the privacy of their occupational office space. Prior to the interviews, the informants were given a consent form discussing the purposes of this research, consent to be audio recorded, and an assurance that their names would not be used in this study. As such, the informants will be identified only by the title of their role in intercollegiate athletics. The interview was semi-structured so that certain questions and topics would be discussed, but the course of the interview could be altered in order to explore pertinent areas of discussion that may not have originally been a part of the questioning format. This interview structure is a blend of formal and informal conversation, but the environment of the interviews in the informants' office led to a professional demeanor among all informants.

Data Analysis

The process of analyzing the data collected followed the grounded theory data analysis process utilized by Harry, Sturges, and Klingner (2005). Grounded theory analysis in qualitative research inductively leads to hypotheses or explanations of the data, rather than the positivist perspective of beginning research with hypotheses (Glaser & Strauss, 1967; Merriam, 2009). After concluding each interview, the audio recording was transcribed. The transcriptions of each interview and other institutional documents were analyzed and labeled into open codes (Harry et al., 2005), which are descriptive words or phrases written in the columns of the transcripts and/or documents in order to identify issues that were repeated or emphasized throughout the interview. These repeated open codes developed into conceptual categories (Harry et al., 2005), or issues

of greatest concern regarding issues within the athletic department. In order to check for consistency of these codes and categories, the audio recordings and transcripts were reviewed multiple times to enhance the reliability of these codes and categories (Harry et al., 2005). The categories emerged into themes embedded in the conceptual categories of the interviews (Harry et al., 2005). The interrelation between themes was examined by comparing and contrasting the conceptual categories from the top-down and bottom-up perspectives for related themes. Utilizing this multilevel analysis, the themes were tested for interrelation (Harry et al., 2005) and central findings emerged from the interrelated themes.

Findings

The University mission of academic excellence and integrity collide with the systemic and economic pressures to win championships at BCS University. While the systemic influences create a contentious relationship between the financial benefits of championship caliber prestige at a major NCAA intercollegiate athletics and compliance with NCAA regulations, BCS University seeks to reconcile these competing forces for the sake of reputation. On one hand, BCS University historically attempted to obtain institutional prestige by winning conference championships “at-all-costs,” but after receiving NCAA sanctions for major recruiting violations and lack of institutional control, the institutional mantra is to ‘Win championships the right way’. The added moniker “the right way” is crucial to the notion of institutional integrity found to support Bowen’s Cost Theory of Revenue (1980).

BCS University and its athletic department are willing to expend all of its generated revenues in order to obtain institutional prestige. This economic behavior follows Bowen's Cost Theory of Revenue, which leads to fiscal inefficiency and has been found to be the economic habits of higher education administration. Nevertheless, this study found that Bowen's Cost Theory of Revenue not only applies to intercollegiate athletics spending, but also has a direct effect upon the principles of institutional control at BCS University. Therefore, a complex set of systemic influences shape institutional prestige through two means. First, financial spending to obtain institutional prestige through winning occurs by inducement policy instruments, where alumni donate money to increase productivity (McDonnell & Elmore, 1987). Second, NCAA rules are enforced to determine what institutions are "winning the right way" or winning championships without violating rules as established by mandated recruiting policy instruments (McDonnell & Elmore, 1987). Both of these systemic influences collide in the context of the entire higher education community because inducement policies breed expectations and behavior that may violate NCAA rules and mandate policy does not necessarily lead to universal compliance (McDonnell & Elmore, 1987). In order to understand the systemic influences of this dichotomy between institutional control and economic saliency, the findings of this study include the institutional notions of prestige, economic and isomorphic pressures of BCS University institutional control, institutional practices in recruiting to support the mission of the institution, and means by which future recruiting violations may be prevented at BCS University.

Prestige

The foundational issue of concern at BCS University is prestige. Institutional prestige for the entire University may be manifest in the form of academic notoriety in specific areas of study (i.e. medicine, law, liberal arts, etc.), multicultural or diversity initiatives, religious values infused in academic prowess, and many more. The goal of prestige at BCS University was “to provide the highest quality undergraduate and graduate programs that instill core values of intellect, unity, character, service, and honor.” Additionally, the University President stated that traditions of “excellence stem from a great sense of pride in who we are and in what [the University] believes.” The FAR added that “our faculty seeks to provide the highest quality education and research possible...we want to be the best at what we do.” This perception of prestige on the University institutional level is not the only standard on the BCS University campus.

A positive reputation in NCAA Division I (FBS) institutions is determined by the frequency of winning championships. The BCS AD described the pursuit of championships as not only athletically related, but as the standard of excellence in athletic administration as “we plan on winning in everything that we do here.” From the bottom-up perspective, a BCS University basketball coach confirmed this sentiment by saying that “our goal at the beginning of the season is to win the conference championship and national championship...if you aren’t here to win, why else would you be here?” A University football coach confirmed this perspective saying that “we must win in order to make [BCS University], alumni, students, faculty, and fans proud of who we are and put the country on notice that we are a force to be reckoned with.” Thus,

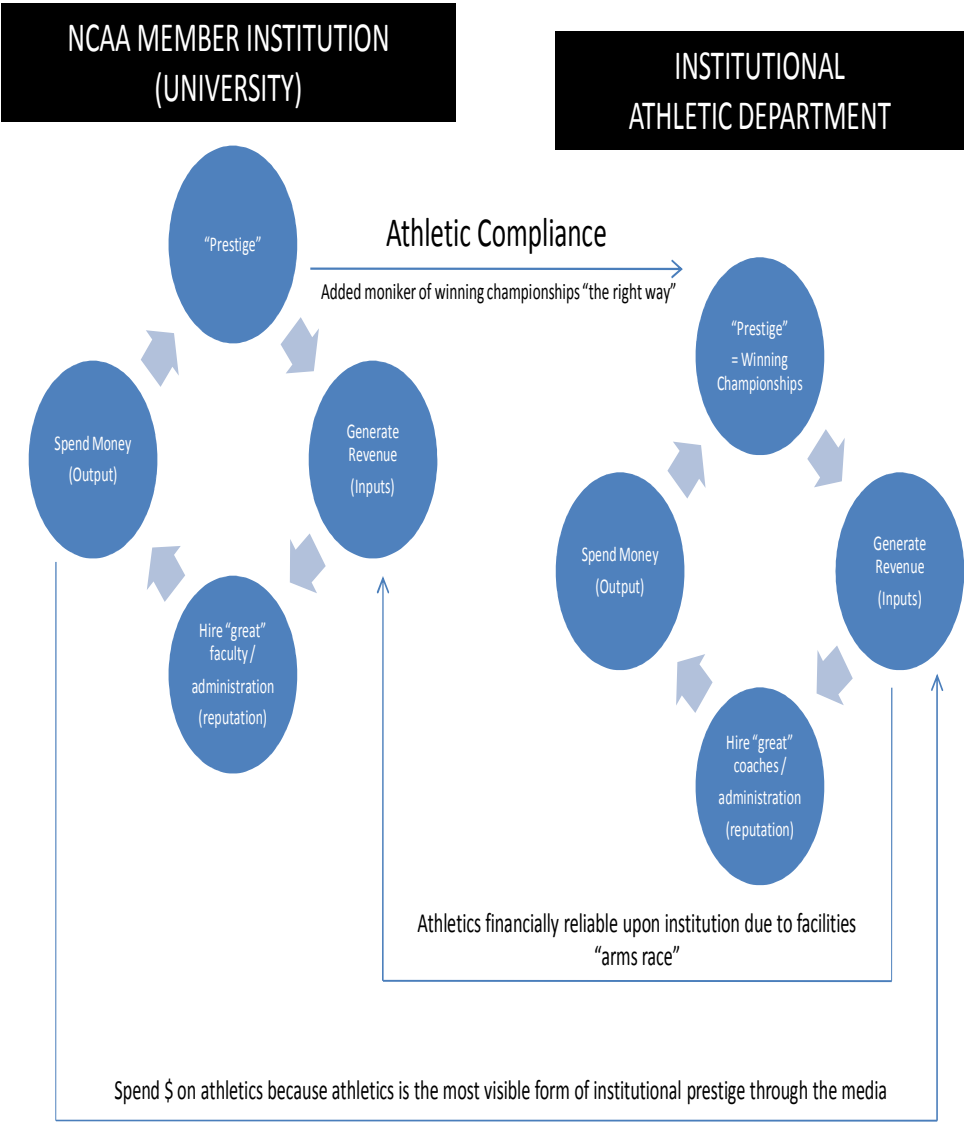


Figure 1. The Cycles of BCS University’s Pursuit of Prestige

there is reliance upon winning percentage as a measurement of success and a benchmark of institutional prestige nationally. Furthermore, it is the goal of the athletic department to win and has become *the* benchmark for measuring success. The AD emphasized the crucial nature of a winning tradition,

You're not in this business if you want to lose. I'm here to make this program relevant again, or else I will not be employed!

As championships are won, a reputation of winning permeates throughout the campus and country by the national media. The University President explained the vibrant feeling of success that spreads across the campus when its athletic teams are winning championships. "When [the University] is winning, life just seems a little better around here." This fervor of uniting a campus and community through pride in athletic teams aligns with the mission of the core values of the University (see Figure 1).

Furthermore, a perennial powerhouse athletic program may provide increased visibility of the University. In fact, the athletic department is the most visible portion of BCS University, according to its President. "If the University is a house, the athletics department is the front porch...it's the most visible part of this campus because it's the first thing you see." As such, BCS University has a vested interest in how the athletic department portrays the values of the institution. The President explains that this can be done through the use of the media,

If you add up the costs for television commercials promoting our University when a football game is on TV, you can understand why athletics can promote the integrity of our institution by means we couldn't otherwise afford.

Through this financial interest, the BCS University establishes a reciprocated, financially binding relationship with the athletic department to “do what it takes to be the best in the nation,” according to the AD. While this visibility may seem beneficial during fortuitous times, but most athletic departments do not always win championships. This reality may lead to an ethical dilemma that can jeopardize the harmony that exists between institutional and athletic prestige.

Economic Climate

The pressure to establish and maintain the prestige of winning championships is exacerbated by the economic climate at BCS University. Following Bowen’s Cost Theory of Revenue (1980), BCS University seeks to maximize its revenue sources through an integrated marketing approach. However, the AD stated that ticket sales in “football and men’s basketball generate virtually all our revenue to pay for sports,” therefore, ticket sales generate revenue to be expended for operational costs of all BCS University sports. However, the notion of establishing prestige through winning championships directly affects this major revenue stream of BCS University because, AD stated, “winning certainly solves all [financial] problems.” Thus, BCS University is willing to “make a coaching change at any time we need to in order to meet our goals of winning championships.” This endeavor can cost millions of dollars. Because dependence upon winning percentage is fallible, BCS University athletics utilizes an integrated marketing approach that engages corporate entities, as well as generating revenue from alumni donor support. The AD stated that BCS University’s “integrated marketing approach maximizes our opportunities for corporate engagement to generate

revenue.....[and] our standard of winning everything that we do raises the expectations of our boosters as they provide additional sources of revenue generation.” The purpose of generating this revenue is to “build the best, state-of-the-art facilities” because “we will do what it takes to have the best facilities in the nation here,” according to the AD. A key component of this endeavor is the financial assistance of boosters. Boosters are “crucial to the development of facilities and our capital campaign efforts to build the best facilities in the nation” (AD) because they provide the additional revenue to be expended that was not gained by ticket sales in men’s basketball and football games. By boosters providing an inducement policy instrument to BCS University, have an expectation that their donations will bring results. One BCS booster stated, “I spend a lot of money to support my [BCS University], so they better win!” Yet, building state-of-the-art facilities has not necessarily translated into championships and the use of capacity-building policy instruments by the AD has led to fiscal inefficiency and some criticism from the University pursuant to Bowen’s Cost Theory of Revenue.

It is the belief of BCS University administration and faculty that the athletic department should be financially self-sufficient. The FAR explained this expectation that “athletics should not rely financially upon the university...[and] when it does, some resources may be taken away from the educational opportunities of the university.” The President confirmed this dilemma,

There were some things that the athletic department wanted to do, in terms of building facilities, which I felt were in conflict with the rest of the institutional priorities.

The AD avowed that athletics is auxiliary to BCS University, yet interconnected by prestige when stating that “I was told by the President that ‘athletics is yours to run,’ so we’ve sought to hire the best coaches that will restore the winning culture of [BCS University].” Nevertheless, the expectations of financial management for both the AD to athletics staff and the President to the AD are quite similar. The President stated that “the institution cannot stand behind a financial failure on the athletic department’s part...[and that] the athletic department must be willing to put personal assets or the assets of the fundraising arm on the line, so that the institution isn’t left to cover the overambitious spending of the department.” The AD stated that “if [athletics staff and coaches] don’t balance [their] budgets, [they] will not work here anymore.” Despite the tension that exists between BCS University administration and athletics, the University relies upon the athletic department for national exposure and possible prestige, while the athletic department seeks additional revenue sources to expend on facilities and coaching contracts.

While winning championships has an effect upon the ability to generate revenue at BCS University, the status of its prestige is also contingent upon having the resources to “win the right way.” The compliance staff at BCS University is responsible to ensure that the President meets the demands of institutional control. The Director of Compliance stated that the compliance staff acts as “the eyes and ears of the University President and administration to make sure that they are not blindsided by some unforeseen issue.” Financial resources are needed to provide compliance support at BCS University. Admittedly, the Director of Compliance stated that “our electronic

monitoring systems for recruiting are not cheap.” These financial resources are available to athletic compliance from both BCS University budgets and the athletic department because the Director of Compliance reports directly to the University President while supporting the athletic department’s mission of rules compliance. The University President stressed the importance of this reporting line,

If the athletic compliance officer reports to the athletic director there is an automatic conflict of interest...because, if you are committed to keeping the recruiting rules, you must have some independence for the athletics compliance office. And if they don’t have the ability to interact directly with the Chief Executive, then you don’t have any power to enforce.

The AD urged support of the athletics compliance program by stating, “I told our staff and coaches that one of the quickest ways to lose your job here is to knowingly break the rules.” Furthermore, a relationship of trust has been created between the Director of Compliance and the AD. The AD stated that the Director of Compliance is “the best that I have ever worked with because he is genuinely supporting our desires to be champions the right way.” The Director of Compliance confirmed that “our AD has supported us tremendously and has warned the staff of the repercussions for overtly breaking the NCAA rules.” Regardless of the support from the President and AD, the Director of Compliance cited a financial need that has not been met, “We need an additional [compliance officer], but the financial state of the university has prevented us from gaining approval to do so.” As such, the Director of Compliance noted that “there’s not enough manpower to monitor all these [compliance] efforts, but that seems to be the case

in many compliance offices around the country.” Furthermore, to make certain that the compliance efforts are not hindered by financial constraints, budgeting meetings are regularly held with university administration “to ensure that we have sufficient to function” according to the Director of Compliance. The ability of the athletic compliance office to function properly is crucial to the preservation of prestige and institutional control at BCS University

Institutional Control

Institutional control of the athletics program is correlated to the integrity and reputation of the entire University. BCS University President has “ultimate responsibility and authority for the conduct of the intercollegiate athletics program” (*NCAA Bylaw 6.1.1*). This burden of responsibility is not taken lightly by the University President, emphatically stating that this responsibility is “not one that can be delegated to another” administrator because institutional control is the “measure of integrity of our athletics program.” According to the President, “integrity means that one cannot compromise personal interests and values to advance the institution.” Thus, a relationship exists wherein individuals within the institution should act in a manner that would not jeopardize the character and reputation of the institution. Integrity is also the key component in BCS University’s mission. Moreover, integrity is at the root of the institutional fabric of academic honor codes and BCS University traditions. Clearly, the President believes that the reputation of the institution relies heavily upon the character of the individuals at BCS University because “integrity is not negotiable!” Furthermore,

integrity in athletics at BCS University is directly correlated to athletic compliance.

Thus, the President ranked the importance of athletic achievements by stating,

I have told the Athletic Director and all of our coaches that I have three priorities for our athletic program: 1) maintaining the integrity of the program and the clean reputation of the University; 2) The academic success of our student athletes; and 3) Winning. They are all important, but they are important in that order. Compliance with the rules is essential—I'd rather lose everything than compromise the integrity of [BCS University] athletics.

The AD added his support to the President by asserting the need for a compliant culture at BCS University. This expectation of compliance was forcefully declared to institutional employees that three issues will lead to a coach or staff member being fired, these are: "First, you mistreat the student-athletes; second, you mistreat the staff; and third, you knowingly and overtly break the NCAA rules." Thus, the AD believes that a compliant culture is established upon two principles. The first is to have an outstanding Director of Athletic Compliance. "Our Director [of Compliance] is the best I have ever worked with...because he is support oriented and puts us in a position to win without issues of cheating from our coaches or student-athletes." The second principle is to follow this basic rule:

Don't do anything for prospective student-athletes (or student-athletes) that you wouldn't do for the entire student population...So if you want to give a car to a recruit, then give one to each of the other students on campus!

While the second principle may not apply to the academic support services and monetary awards that student-athletes receive that are permissible by NCAA mandates in Bylaws 15 and 16, this principle clearly states that BCS University wants to prevent impermissible financial recruiting inducements. This fact is especially important to note because BCS University was reprimanded by the NCAA for a major recruiting infraction of *Bylaw 13.2* due to under-the-table payments from boosters to prospective student-athletes. Thus, the AD is aware of the past compliance issues that transpired prior to being employed at BCS University and seeks to establish a culture of compliance. The role of a compliant culture is central in protecting the integrity and reputation of BCS University.

BCS University President also acknowledged the compliance issues of the past. Specifically, the President's most feared effect of the violation of NCAA rules was the perceived loss of integrity and label of being an "Outlaw School." The 'Outlaw' may win games, but with the victories include the caveat that the winning resulted from cheating. This perception of scandal "does not enhance the academic reputation of the institution." Programs that have broken the rules in order to entice players to come to campus for the sole purpose of winning championships is at the crux of the dichotomous relationship between obtaining athletic prestige and foregoing core values of the institution. Once a university is labeled an 'Outlaw', the reputation of integrity for the entire institution is lost. Therefore, the President declared that "once you lose your integrity it is almost impossible to get back." The University President mentioned that it was *almost* impossible because "[BCS University] had somewhat of an outlaw

reputation for some activities regarding our boosters and recruits.” It immediately became the focal point of the BCS University presidency to dispel this reputation by taking forceful and open action against the boosters and coaches that allowed this reputation to taint BCS University’s image of integrity. For this reason, individuals within the athletic department report directly to the President to protect the integrity of the institution.

One key to success of regaining prestige, according to the BCS University President, is that “the President has to be engaged.” This commitment begins by the BCS University President actively establishing clear lines of authority, so that there is no conflict of interest with the AD. The University President established this “clear relationship” with the athletic department by meeting separately with the Director of Compliance and AD shortly after being selected as President. By so doing, the Director of Compliance reports issues of institutional control directly to the University President and not to the AD and thus avoiding “a direct conflict of interest.” Because the AD’s employment depends upon the financial and competitive success of the athletic programs, the AD stated that some might overlook rules violations if that means additional job security in the form of championships. This conflict of interest also isolates the President and Director of Compliance because of the visibility of winning games as daily operations of keeping the rules. The President explained this isolation,

It’s a lonely world to be a President or Compliance Director. Fans aren’t cheering for institutional control!

From this top-down perspective, the President has the lonesome responsibility to ensure that athletics programs do not denigrate the pursuit of institutional prestige. The AD has the responsibility to win, but has received and accepted the mandate to win ‘the right way’ by supporting institutional control. As such, the President outlined the two-fold the priorities at the University: “We’re going to balance the budget and we’re not going to have NCAA violations.” However, the BCS University President’s initiatives rely heavily upon the Director of Compliance to enforce the day-to-day operations of institutional control. These enforcement responsibilities isolate the Director of Compliance on the meso-level, caught between the mandates of the NCAA and University President and the bottom-up perspective of coaches and boosters.

The Rules and Pressure to Win

The administration coaches at BCS University have a perfunctory respect for the mandated policies of the NCAA, its enforcement, but a sobering realization of the impact NCAA recruiting violations can have on reputation. One coach joked that “What God did in Ten Rules, the NCAA still hasn’t figured out after 400 pages!” This sentiment was reinforced by the University President by stating, “I don’t have time to read all 1,500 pages of the NCAA’s gobilty-gook!” NCAA recruiting rules are notorious for scope and breadth, which have become increasingly complicated due to the nature of rules creation in the NCAA. The Director of Compliance explained that “the rules are in place, as currently constituted, because someone found their way around the previous rules.” In consequence, the NCAA recruiting rules are reactive and fluid in nature giving a perception that some of the rules are reactively created with minimal

foresight for future implications. The AD stated that the convoluted nature of the rules stems from its fluidity, “Yes, the rules are convoluted, but that’s because they change all the time!” This sentiment is also found among University boosters from outside the athletic department, as one BCS University booster stated that “I don’t care to know all the NCAA rules, but I know that I sure pay a lot for a ticket to watch my team!” This transitory nature of NCAA recruiting rules invites the perspective from the meso-level and bottom-up perspectives that violations will occur due to ignorance of ever-changing rules and it is just a matter of avoiding major reputation destroying recruiting violations.

Notwithstanding the volatility of the rules, the pressure for coaches to win remains constant. It becomes increasingly difficult for a coach to win games if the coach cannot recruit top talent into the program, as BCS coach stated, “If you can’t recruit, it is almost impossible to win!” When a coach is unable to lead the team to victories, a change of employment is eminent according to the AD. This is especially true for football and men’s basketball, according to the AD, because these sports “pay for the operation of the rest of the sports on [BCS University’s] campus.” BCS Coach stated that “if you want to win championships in our conference, there is no doubt that you need several guys on your team that will eventually go pro.” This high stakes recruiting has led to the belief from coaches that “[The NCAA] may not catch you violating the rules, but everyone will for sure catch you losing!” One such scenario was described by BCS Coach. While recruiting at a basketball tournament several years previous, BCS Coach noticed what appeared to be another college coach talking to a player by the locker rooms in between games. This other college coach seemingly handed the player

something, which *appeared to be* a cash inducement violation of both contacts and evaluations rules and inducement rules of *NCAA Bylaw 13.1* and *13.2*. The coach did not report this to the NCAA because he was not certain who the individual represented. BCS Coach then stated that “Some coaches are willing to give prospects money and cars, but we don’t because we’re in it for the long haul.” By offering additional benefits for attending a university, the coach from the other team *might have* a better chance at successfully recruiting the player though in violation of NCAA rules, but these remunerations may not be lasting.

Coaches that desire to quickly earn the reputation of a winner may gain a heightened level of prestige by violating recruiting rules to get top talent into their universities. However, this prestige is fleeting. BCS Coach stated that,

In my twenty-plus years in this business, I have seen a lot of coaches make it big quickly by breaking the recruiting rules. What’s interesting to me is that it always seems to catch up with them. After a while, they get caught and *nobody* wants a cheater at your university!

The systemic pressure of winning championships depends upon the caveat given by NCAA mandate and the University President that institutional integrity is not negotiable in the long-run. Nevertheless, lapses of institutional integrity in the short-run are a means of gaining momentary prestige as a product of inducement policy instruments (McDonnell & Elmore, 1987). BCS Coach illustrated the importance of this longevity of reputation in terms of college basketball coaching legends.

You don't hear about Coach K and Bobby Knight openly violating the rules! It's because if you want to have your name alongside these legends, you have to consistently win championships the right way!

Consequently, the moniker of "the right way" being added to traditionally winning championships has become a standard requirement for coaches reaching legendary status. Therefore, the coaches at BCS University seek to 'win championships the right way' due to isomorphic pressures to obtain coaching prestige and/or following the dictates of personal integrity. Thus, the public perception of whether or not a coach follows the NCAA rules can directly influence his or her prestige from the bottom-up perspective.

While the systemic pressure to win may lead to short term ethical lapses, some recruiting rules invoke the opposite effect than the NCAA's original intent of the regulation. BCS Coach explained one such circumstance where the original intent is not the outcome of the NCAA legislation.

If I could change one rule, it would be to get rid of the early signing period... There used to be a time where a kid could not get out of the National Letter of Intent and sign somewhere else. But, now with coaches leaving jobs as much as they do in pursuit of better jobs and money, the early signing period only leads to kids getting stuck with a coach that didn't recruit them or they get contacted [impermissibly] by another coach to play somewhere else. I would just like to see the early signing period just go away!

The original intent of the early signing period was to ease the demands of the recruiting process on a prospective student-athlete during their high school senior year (NCAA, 2007). According to BCS Coach, the early signing period does not take into account the issues of coaching changes, which can cause additional demands in time for the prospect go through the bureaucratic process of receiving permission from the university to go to another because of the coaching change. If this permission is not granted, the prospect may transfer to another university as long as he or she does not participate in competitions during his or her first year of residence at the university (National Letter of Intent, 2009). Another BCS Coach disputed the benefits of the original intent of the text messaging ban (*Bylaw 13.4.1.2*), which the NCAA cited that text messaging was an undue burden on the prospective student-athlete (NCAA, 2008).

I would change the text messaging rule because all it really does is create more violations to report. Look, if you can't text, then you can simply send an e-mail that goes directly to a kid's phone nowadays anyway. So, tell me, what's the difference between allowing unlimited e-mails and unlimited texts? There should just be a limit on how many texts you can send a week!

From this bottom-up perspective, the original intent of some NCAA rules may result in an unintended antithetical outcome.

Enforcement of the Rules

From the meso-level, the Director of Compliance believed that many of the sanctions ascribed by the NCAA do not properly balance penalizing the individual rules violator or the institution. It is the duty of the Director of Compliance to protect both

individuals within the athletic department (i.e. student-athletes, coaches, administrators) as well as protect the integrity of the institution. This unique position suggests that there needs to be a balance between penalties given when systemic issues in an institution lead to rules violations compared to penalties given when individuals overtly violate NCAA regulations. Because the enforcement of mandates relies upon coercion (McDonnell & Elmore, 1987), the sanctioning process is vital to the success of NCAA rules enforcement. The Director of Compliance explained that,

You want an even playing field... and if [the NCAA] isn't going to [take away eligibility] from the student athlete, the Student Athlete Reinstatement Staff needs to make sure that the Enforcement Staff is upping the penalty on the institution. We may get a lesser penalty on the institution, and a higher penalty on the student-athlete, because the student athlete knew or had an opportunity to know...It's okay to be off a little bit, but both can't be lower!

Therefore, the enforcement between individual violations and institutional violations should act like the scales of justice (see Figure 2). When a student-athlete or coach commits a violation out of their own volition, the sanctions should be lower for the institution and higher for the individual. Whereas, if the institution allows violations to occur as a part of the culture, the individual that followed institutional policy should be penalized less and the institution should receive a more severe sanction. Without this balance, the Director of Compliance explained how some universities can claim ignorance to avoid major sanctions,

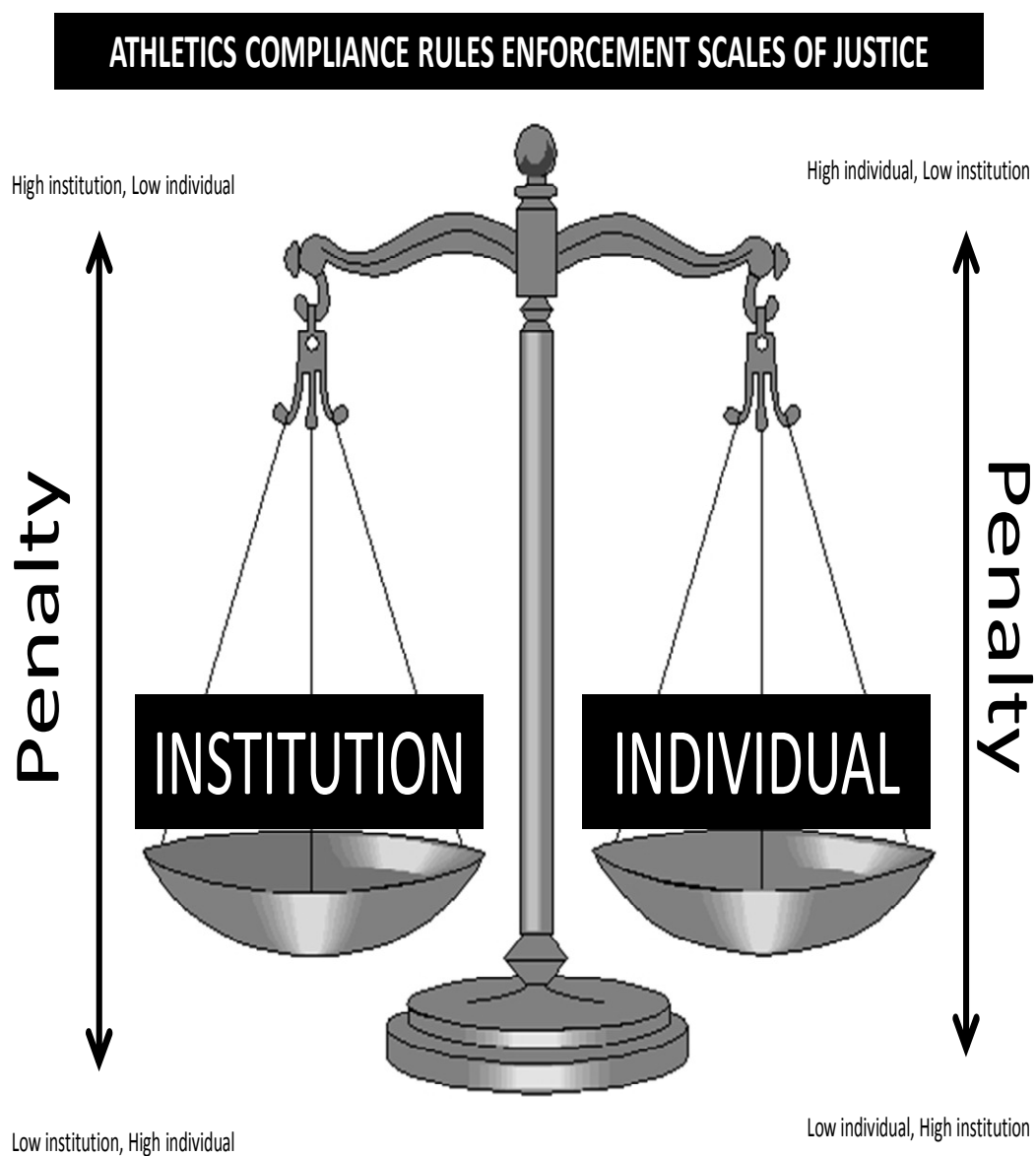


Figure 2. Athletic Compliance Enforcement Scales of Justice

[Some] schools then say, ‘forget it, we don’t want to educate our [student-athletes].’ It puts them at a disadvantage if [the school] does rules education and if [coaches or athletes] mess up and [violate a rule] or they induced at the house of a booster [given under-the-table gifts or money]. Our kids are going to suffer a penalty because we taught them the rules, whereas other institutions don’t have to [suffer] because their school didn’t teach them anything!

Much like the adverse effects of the early signing period, if the interests of the institution are not being addressed in NCAA rules enforcement, there are benefits of lower sanctions by not informing individuals of their compliance responsibilities of institutional control. While this balance is troublesome to the enforcement of compliance issues on the institutional level, there are other bothersome issues of compliance related to individuals of athletics interest.

Because the NCAA is not a government entity, or state actor, pursuant to the holding in *Tarkanian v. NCAA* (1987), there are limitations of what the NCAA can do to enforce its rules on individuals. The Director of Compliance described the individual penalties for both the bottom-up and top-down perspectives when NCAA rules are violated,

...Student-athletes can lose eligibility and not participate. Coaches can be fired or given a show-cause order forcing them to appear before a committee to be reinstated to coach. The institution can be hit with lack of institutional control or a failure to monitor, which may severely taint the image of the University...but you can’t do too much to a booster or representative of athletics interest.

Boosters are an integral part of the athletic department's goal to generate revenue. As mentioned before, this revenue generation is vital to the financial success of winning championships through major donations and ticket sales. The expected effect of the booster donating money is short-term returns through production (McDonnell & Elmore, 1987). One BCS Booster stated that "when I donate thousands of dollars to keep and reserve my season tickets and then pay an additional couple thousand dollars for the tickets, I expect to see some championship football." This aligns with McDonnell and Elmore (1987) who found that there is an expectation that the individual or institution that received the inducement will produce outcomes consistent with the expectations of the financial allocator.

When championships aren't being won, some boosters seek to reallocate the inducement directly to athletically gifted recruits in violation of NCAA recruiting rules (*Bylaw 13.2*). It is the responsibility of the Director of Compliance to monitor and prevent this activity from occurring. However, the Director of Compliance explained why enforcement of NCAA rules on boosters is challenging,

You can't do too much to a booster...other than say, 'Hey, you can't give us anymore money' or 'you can't buy season tickets.' Then, they'll say, 'Well, I'll walk up to the ticket booth and buy my ticket' or 'that's fine! I'll keep my couple million dollars.'

Although not all boosters intend or will violate NCAA recruiting rules, the inability to penalize boosters except through disassociation (not allowing boosters to attend games or donate money) poses significant problems. One BCS booster stated,

Look, I love to watch my [University] and if my season tickets got taken away, I don't know what I would do! But, if there is someone out there who really wants to do something against the rules, they'll probably get away with it.

This possibility has led the Director of Compliance to make special educational efforts to the booster clubs throughout the state in order to inform boosters of the repercussions of such actions. Moreover, the Director of Compliance mentioned that “this can certainly keep you up at night” hoping that boosters will act in a manner that would not jeopardize institutional prestige. The University President said “There’s always the threat of a rouge booster out there who wants to take winning into his own hands, but we seek to educate our alums to maintain the integrity of our institution!” This desire has translated into the AD stating, “We ask our donors to contribute to our fundraising group, where they can earmark how their money should be spent—this option should reduce the direct payment to prospects or student-athletes in our department.” One booster stated, “When I donate, I want my money to be used to help student-athletes, but I don’t want to cause any problems with the NCAA.” Therefore, a need exists to educate boosters on separating how to permissibly donate money to help student-athletes without breaking NCAA rules.

Curtailing Future Recruiting Violations

From the multilevel perspectives of top-down, meso-level, and bottom-up, six principles emerged that may assist in curtailing future NCAA recruiting violations. From the top-down perspective, the enforcement, interpretation, and complexity of the NCAA recruiting rules are at the center of these emergent suggestions of how recruiting violations can be prevented on the institutional level. First, *the recruiting rules should be*

simplified in a manner that would require fewer changes. Due to the reactive nature of the NCAA recruiting regulations, the rules have become ever-expansive allowing individuals and institutions to claim ignorance to the rules in an effort to avoid receiving sanctions. For example, *Bylaw 13.1.3.1.6* restricts telephone calls initiated by the institution to one call per week. However, a coach may e-mail on facebook as many times as he or she desires according to *Bylaw 13.4.1.2*. In other words, the complexity of the NCAA rules establish an innate competitive imbalance, as described by the Director of Compliance,

Knowledge is power—not only knowing what you can’t do, but also what you can do. Because that may give you some edge out there in the recruiting trail... because you know what you *can* do [to entice a recruit] within the rules.

This competitive imbalance could be construed by some to be contradictory to the NCAA’s principle governing recruiting *NCAA Constitution 2.11* which states that “Recruiting regulations shall be designed to promote equity among member institutions in their recruiting of prospective student-athletes” (NCAA, 2009). While simplifying the rules may increase awareness, it may not necessarily level provide competitive balance in the understanding of rules compliance. Thus, a competent Director of Compliance may be a means of reducing the complexity of the recruiting rules.

Second, there is a need to *universalize NCAA rules interpretations among member institutions*. While the NCAA currently posts staff and official Association interpretations of particular bylaws on the Legislative Services Database for the Internet (LSDBi), there remains a gap between the practice of interpretations and what the

NCAA disseminates to its member institutions. This gap was evident as BCS Coach described a recruiting situation where he wanted to attend an event that the BCS University athletic compliance staff told him it was impermissible. Later that week, he talked to a coach from another university that attended the event and described that several coaches were present at the purported impermissible event.

We should be able to do the same things that other coaches can do [with the blessing of their compliance office] without our compliance office getting in the way because of a rules interpretation nobody knows about!

If the event was impermissible according to a bylaw interpretation at one university, the same should theoretically apply to another institution. Nevertheless, this is not always the case with rules interpretations at BCS University. From the bottom-up perspective, this is an indictment on the compliance staff not helping the coach get an advantage on the recruiting trail. On the meso-level, this scenario could alienate the relationship between coaches wanting to ask compliance for help in the future and could also force the Director of Compliance to become a whistleblower against other programs violating the rule. This precarious position, caused by disconnect between selective enactments of rules interpretations, only further estranges athletic compliance professionals from the athletic department.

The third suggestion for curtailing future NCAA recruiting violations is for the NCAA and the University administration to *establish appropriate and balanced sanctions or penalties for violations*. As previously discussed by the Director of Compliance, there should be a balance between institutional and individual sanctions for

recruiting infractions (depicted in Table 2). Thus, institutions that do not educate their constituents should not receive lower penalties utilizing the excuse of ignorance to the rules. This concern was asserted by the Director of Compliance saying,

Another institution, for example, can't get the same institutional penalties that we get, when their student athletes are getting lower penalties because they didn't educate [them on the rules]. One of them needs to go up if the other one's coming down. That's kind of the message I've given the [NCAA] Student Athlete Reinstatement to make sure there is communication about these inadequacies in rules enforcement.

By issuing lower penalties to the individuals *and* institutions, rules enforcement benefits those not administering stringent institutional control through rules education. This contradiction is also present as coaches are being rewarded with massive buyout payments after being terminated for major recruiting infractions. The BCS Coach said,

Just look at Kelvin Sampson and his six-hundred or so thousand dollar buyout [after being fired for major recruiting violations at Indiana] and tell me that universities are more worried about compliance than winning.

The BCS University President agreed that “this is another thing I wish I...could change about college sports, but it's a reality!” The institution is forced to pay hundreds of thousands to millions in a buyout to the rules-violating coach or pay exorbitant legal fees from a wrongful termination lawsuit by a fired coach. The financial benefits of violating the rules may exceed the financial benefits of rules compliance, especially if the only deterrent for coaches to not violate recruiting rules is longevity and seeking legendary

status. Thus, it is suggested that institutions should take great care in drafting coaches' contract and possibly have a built-in liquidated damages clause for NCAA violations. BCS President stated "This clause is being built into contracts and that's why it is such a time-intensive endeavor to hire a coach." The AD acknowledged, "We cannot hire coaches that do not have the best interest of the University in mind, especially, if they are going to take advantage of our name, reputation, and finances." The Director of Compliance added,

I believe that may be some state laws that prohibit boosters from giving money to athletes. While this may not completely stop the activity, it can act as another deterrent.

Therefore, there must be financial and legally binding accountability for individuals responsible for rules violations for sanctions to act as a disincentive to future recruiting violations.

The fourth suggestion comes from the meso-level perspective, where *compliance officers should utilize a service-oriented approach to bridge the gap between the athletic department "winning championships" and the University's mission of integrity by "winning championships the right way."* This service oriented philosophy can unify the pursuit of prestige by both the University and athletics. According to the Director of Compliance,

Our AD has mentioned several times that he really appreciates the approach that our Compliance office takes as far as trying to find ways to do what the coaches want to achieve. Sometimes we can't do it the way the coaches *want to do it*, but

we can suggest something that helps them maybe achieve what they want to achieve. We'll ask them what they are trying to get out of it, or what are they really want to do as an end result. We explain that they can't influence the process through *this* path, but here's something you can do that might not be as great an influence as buying them that new car, but you certainly can do *this*, and that could help you in the process of influencing this kid's decision to come to the University and it's perfectly permissible.

This compliance strategy is not necessarily conducive to establishing a compliance-coach friendship, but according to BCS Coach it makes the relationship "much more functional than I have had at other institutions." This functionality leads to coaches asking questions and facilitating the institutional control process of rules education and monitoring of recruiting actions.

From the bottom-up level, the fifth and sixth suggestions for preventing recruiting infractions emerged. *Increasing the requirements for passing recruiting certification tests, so that coaches will be held individually responsible for knowing the rules* is the fifth suggestion for curtailing recruiting improprieties. Each year, coaches that have recruiting responsibilities are required to take the recruiting certification exam administered by the NCAA. BCS Coach stated that "I've been around college basketball for a long time and I always seem to miss one or two of the questions on the recruiting test." This laissez-faire attitude toward the recruiting test score addresses the concern the Director of Compliance has about the recruiting test. "[The test] establishes accountability and responsibility for that 'I didn't know' excuse for a violation." So if

coaches are held accountable to a minimum standard of recruiting regulation knowledge that is not taken seriously, then the ignorance excuse for a recruiting violation is much more likely. This prompted one compliance officer to state “the recruiting test needs a serious overhaul!” The FAR agreed that “there is a serious question of validity to the NCAA recruiting exam, as it only addresses a portion of what coaches encounter on the recruiting trail.” Furthermore, “the test should include situations that coaches actually face and how to keep the rules when they encounter real-life situations.” As such, the recruiting examination should follow a case study approach where recruiting scenarios are presented and coaches must indicate what actions are permissible and impermissible to be valid in the eyes of the FAR. In order to counterbalance the ignorance claim some coaches may use, the coaches’ recruiting certification exam should increase in rigor, functionality, validity, and coaches should be held responsible to know the recruiting rules.

Lastly, *there should be financial incentive to keep the rules*. The financial incentive for rules compliance should not simply be avoiding fines and penalties. If a coach is not rewarded for keeping the rules, he or she will only do enough to avoid receiving the negative effects of NCAA sanctions. BCS Coach explained,

I’m rewarded for how many games we win and whether or not our athletes are doing well in the classroom. And even that is subject to how well we do on the court.

The lack of reward system for compliant behavior amounts to the difference in alternative policy instruments. Where mandates, NCAA rules, use coercion to affect

behaviors, inducement policy instruments, or giving resources to receive an intended effect, motivate individuals to produce an outcome (McDonnell & Elmore, 1987). In other words, individuals are currently compelled to follow the rules rather than receiving a reward for following the rules. BCS coach stated, “I believe in integrity, but I know that there are some coaches that believe in money when it comes to doing what’s right.” While one might argue that ethical behavior should not have to be rewarded because it should be innate, there is reason to reward compliance with NCAA rules because sometimes the benefits of rules violations may exceed compliant behavior. As such, the data suggest that individuals should be financially compensated for keeping the rules as an incentive to ethical decision making, much like receiving compensation for winning bowl games. This may come in the form of a bonus check for three years of major violation-free athletics for a coach. Rather than finding new forms of punishment, motivation through financial inducement to coaches and administrators could effectively motivate individuals to learn and follow NCAA recruiting rules.

Conclusion

In conclusion, the systemic pressure to win championships and maintain institutional control become difficult to balance with the added pressure of high stakes recruiting that can influence the financial stability of an athletic department. As such, the rewards of rules violations may bring the intended goal of obtaining prestige through winning championships, but in the long-term, winning championships without violating recruiting rules will help the University obtain its goal of prestige. In order to assist universities in obtaining this prestige through athletic compliance, six methods of

curtailing future recruiting violations emerged. From the top-down perspective, a) the recruiting rules should be simplified in a manner that would require fewer changes, b) NCAA rules interpretations among member institutions should be universalized in scope and application, and c) there should be appropriate and balanced sanctions for recruiting violations. From the meso-level perspective, d) compliance officers should utilize a service-oriented approach to bridge the gap between the athletics prestige and University prestige. From the bottom-up perspective, e) the recruiting certification exam for coaches should be altered in order to appropriately increase requirements to hold coaches individually responsible for knowing the rules in situational recruiting encounters, and f) there should be financial incentive to keep the rules. Although this study does not focus upon the generalizability of its findings to all NCAA member institutions, the implications may reach beyond the campus at BCS University to other similar NCAA member institutions. These findings offer a means by which future violations of recruiting rules may be reduced and it may also prevent employment termination of individuals or provide the blue print to enhance the reputation of integrity for an institution of higher education.

CHAPTER V

WHERE DO WE GO FROM HERE? IMPLICATIONS AND CONCLUSIONS OF REPORTED AND UNREPORTED NCAA RECRUITING VIOLATIONS

On the NCAA Division I (FBS) level, universities and coaches are under extreme pressure to win championships. Simultaneously, universities must maintain the integrity and prestige of their institutions through compliance with NCAA recruiting mandates. Without either of these components, a university athletics program may be perceived to be an “outlaw program” that breaks NCAA rules in order to win championships or athletic departments may not be considered prestigious because they do not win championships despite a compliant culture. If the NCAA rules are broken and no championships are won, the university may suffer irreparable damage to its prestige and have nothing to show for it. This work has identified multiple typologies for recruiting violations in order to elucidate what factors led to reported and unreported recruiting violations, and provide effective methods that universities may implement to protect the integrity of their institutions and curtail future recruiting violations.

In this chapter, the cumulative analysis of the findings in the previous three chapters is discussed. It begins with the discussion of how institutional and individual characteristics advance the current boundary assumptions regarding the typologies of reported and unreported NCAA recruiting violations. Next, the issues of what institutional actions may be utilized by universities in order to curtail future NCAA recruiting violations and assert institutional control. This work will conclude with

unresolved matters regarding recruiting violations including recommendations of what systemic legal remedies may be used to curtail future recruiting violations.

NCAA Recruiting Violations

The NCAA formal organization functions like a classic economic cartel, where member institutions have agreed upon appropriate recruiting actions stipulated in *Bylaw 13* and also expect uniform compliance with these mandates. However, uniform compliance is not achieved in NCAA compliance because unreported violations of *Bylaw 13* are occurring without disclosure to the NCAA. Universities found to ineffectively conduct institutional control may be sanctioned for major recruiting infractions that may lead to the loss of prestige.. Furthermore, universities function under Bowen's Cost Theory of Revenue (1980) where all revenues generated are utilized to obtain institutional prestige. In Division I (FBS) athletics, winning championships without violating NCAA rules will bring the most prestige to the entire university. For this purpose, NCAA member universities must understand what violations they are most susceptible to, what actions must be taken to instill institutional control and curtail future recruiting violations, and what courses of legal action may be taken to protect the integrity of their institution.

Institutional Vulnerability

NCAA member institutions may be vulnerable to certain types of recruiting violations based upon conference affiliation, geographic region, size of compliance staff, and particular sports sponsored by the university. The findings from reported and unreported recruiting violations indicate that universities that are affiliated with the BCS

are more likely to be involved in recruiting violations than Non-BCS affiliated universities. There is a heightened risk for violations of NCAA recruiting regulations because BCS affiliated universities are more likely to compete for football and basketball national championships.

Of the most severe reported recruiting violations, the Big Ten and SEC are more likely to be involved in violations of *Bylaw 13.1* contacts and evaluations limitations, and *Bylaw 13.2* offers and inducements regulations. Universities located in the geographic regions of the South and the Midwest are most likely to be involved with all types of major reported recruiting violations, whereas, universities in the South are more likely to offer prospects impermissible cash inducements in violation of *Bylaw 13.2*. Institutions that have only one full-time compliance coordinator are vulnerable to receiving sanctions for reported major recruiting violations and institutions with one or two compliance coordinators are susceptible to be sanctioned for violations of *Bylaw 13.1*. Coaches and staff members at BCS affiliated universities are more likely to be individually sanctioned with a show-cause order in conjunction with a reported major recruiting violation than their Non-BCS counterparts. This is particularly pertinent for individuals (e.g. coaches, staff, etc.) involved with football or men's basketball in the South. Finally, revenue sports programs are more likely to be sanctioned for reported major recruiting infractions than non-revenue sports.

In unreported recruiting violations, revenue sports were a significant factor in recruiting violations of telephone call limitations (*Bylaw 13.1.3*), impermissible entertainment funds and/or use of sex or adult entertainment on official visits (*Bylaw*

13.6.7.5 & 13.6.1), impermissible academic assistance on an ACT or SAT examination (*Bylaw 10.1*), a scholarship offer during a camp or clinic (*Bylaw 13.12.1.3*), and impermissible inducements of cash, car, or loan to a family member (*Bylaw 13.2.1.1*). Non-revenue sports were a significant factor in unreported violations of impermissible text messaging (*Bylaw 13.4.1.2*), impermissible decoration of hotel rooms on an official visit (*Bylaw 13.6.6*), impermissible inducements of memorabilia (*Bylaw 13.2.1.1*), and impermissible institutional violations of underage drinking of alcohol during an official visit.. Therefore, universities should be aware of their institutional vulnerability to unreported violations pursuant to conference affiliation, geographic region, size of compliance staff, and susceptibility to particular recruiting violations found to be involving certain sports offered at the university. Additional insight from the frequency and severity of NCAA recruiting violations may explicate areas of change needed in particular types of recruiting regulations.

Contacts and Evaluations

The frequency of reported and unreported recruiting violations revealed vulnerability in the intended effect of contacts and evaluations recruiting mandates in *Bylaw 13.1*. Coaches begin the recruiting process by evaluating talent and contacting prospective student-athletes. Not all prospects contacted by coaches will advance to the official visit or scholarship offer phase of recruiting. However, the first step in the recruiting process involves the limitations mandated in *Bylaw 13.1*. Not surprisingly, among the most frequently occurring major, secondary, and unreported recruiting infractions involved *Bylaw 13.1*. It is evident that the frequency of both reported and

unreported recruiting violations of *Bylaw 13.1* showed that there may be three explanations for violations of this particular mandate.

First, there may be a blatant disregard of *Bylaw 13.1* by coaches in the contacts and evaluations phase of the recruiting process. This may be the case for coaches that are seeking to quickly gain a reputation as a winning coach by impermissibly contacting prospects before other coaches in order to attract top talent into their universities. In men's basketball recruiting, the response of the NCAA to this trend was to lower the technical age of a prospect from ninth grade to seventh grade thereby holding universities responsible for limitations of contacts and evaluations of younger prospects. Halting the trend of recruiting prospects under the seventh grade level may not be successful either, as the former men's basketball coaches from Kentucky and USC received verbal commitments from elementary school aged children.

Second, the scope of the regulations in *Bylaw 13.1* may be too complex for coaches. This may lead to an inability or unwillingness to comply with the contacts and evaluations mandates, necessitating a deregulation and simplification of *Bylaw 13.1*. Coaches in this work attributed much of their confusion about NCAA rules on the fluidity of its legislation. As the rules continue to change annually, the understanding of what may or may not be permissible will wane.

Third, the *Bylaw 13.1* contacts and evaluations and *Bylaw 13.4* text-messaging mandates may conflict with the technological advancements of coaches use to contact prospective student-athletes. The original intent of the text-messaging ban in recruiting was to minimize the financial burden on prospective student-athletes. This work found

that this goal was accomplished, with the effect being that prospects from a home with an above the national average income were most likely involved in violations of contacts, evaluations, and text-messaging limitations. In order to address the last two reactions to *Bylaw 13.1*, NCAA member institutions in the Pacific 10 Conference have put forward Proposal 2009-32 to deregulate telephone contact limitations to prospective student-athletes and their families from the permissible one telephone call per week to unlimited telephone calls during a contact period. If this proposal is passed in January 2010, it may be the beginning of the deregulation of other facets of contacts and evaluations regulations in *Bylaw 13.1*. Through deregulation of *Bylaw 13.1*, much of the confusion and fluidity of the NCAA recruiting rules would be minimized. Additionally, the heavy burden of monitoring thousands of telephone calls may be reduced for athletics compliance staffs nationwide.

Offers and Inducements

The most severe reported and unreported recruiting violations involved offers and inducements in violation of the *Bylaw 13.2* mandates. These violations transpire after the contacts phase in an attempt to lure prospects to agree to play for a university. Unlike *Bylaw 13.1* violations that sift out recruits from hundreds of others to decide which ones best fit the needs of the program, violations of *Bylaw 13.2* occur in a more individual setting where a prospect is specifically targeted with a gift, cash, or other inducement. Reported recruiting violations of *Bylaw 13.2* indicate that universities in the South and Midwest were most likely to be caught offering an inducement to a prospect. Unreported recruiting violations of *Bylaw 13.2* indicate that universities in the South

were most likely to offer an inducement to a prospect, but not necessarily be caught by the NCAA doing so. Other institutional characteristics of reported violations of *Bylaw 13.2* include that football and men's basketball programs in the SEC, Big Ten, and Big 12 were most likely to offer inducements to prospects.

This work provided additional insight regarding the systemic and financial influence of Division I (FBS) athletics shown through the allocation of offers and inducements in violation of *Bylaw 13.2*. First, prospects that participate in a revenue sport and are a racial minority (non-white) are more likely to be offered inducements of a higher monetary value such as cash, cars, or loans to family members. On the other hand, prospects that are white and play a non-revenue sport are more likely to be offered memorabilia (e.g. pennants, clothing, and souvenirs) as an inducement. Thus, violations of *Bylaw 13.2* have financial and racial implications. Financially, individuals offering inducements in violation of *Bylaw 13.2* were found to place greater emphasis on revenue sports. True to McDonnell and Elmore's (1987) inducement alternative policy instrument, athletic inducements are used to receive immediate returns in a sport (e.g. football or men's basketball) that violators may feel has the greatest return on investment. In terms of racial implications, minority prospects may be targeted for their willingness to violate NCAA inducement rules as a matter of socio-economic stereotyping. The findings of this study on unreported violations of *Bylaw 13.2* did not determine the income level of prospects to be a significant factor. Therefore, the tacit belief that giving financially underprivileged minority prospects money is the major determining factor for *Bylaw 13.2* violations is not supported in this work. The current

practice of unreported cash inducement violations of *Bylaw 13.2* given by universities (coaches, staff, or boosters) to minority revenue sports prospects displays the continued racial stereotyping that exists in the Southern region of the United States.

Establishing Institutional Control

In order to protect institutional prestige, universities must balance the drive to win championships by asserting institutional control through a comprehensive athletics compliance program. The recipe for successful institutional control by a university follows a four-step process. First, the University President must be engaged in the process of rules compliance. By understanding that institutional control of the athletics program is correlated to the integrity and reputation of the entire university, athletics compliance must be valued by university administrators. Moreover, the university president must be involved in athletics compliance or else the director of athletics compliance will have no ability to enforce rules compliance on a daily basis. Second, the priorities of the athletics department should be ordered as follows, a) maintain integrity through rules compliance, b) promote academic success of student-athletes, and c) win championships. This particular order is vital because if the integrity of the institution is in question, so too will be the value of the education student-athletes are receiving and the integrity of the athletics competition victories. Third, the University must establish a culture of compliance by having an outstanding director of compliance and asserting that compliance is an expectation of everyone. Without individuals capable of performing the director of compliance responsibilities, there would be little confidence in the culture of compliance being established. A competent director of

compliance is insufficient because there should be an expectation of all individuals in the athletic department and university to comply with NCAA regulations. By combining human resource competence and an expectation for compliance, a culture of athletic compliance may spread throughout the university. Fourth, the University must acknowledge and address specific compliance problems of the past in order to build or rebuild institutional prestige. Each university must be aware of the NCAA violations to which they are most vulnerable and directly address these issues through policies, procedures, rules education, and monitoring of recruiting actions conducted by institutional staff members (e.g. coaches). By so doing, universities may prevent issues that could become reputation damaging violations of NCAA regulations.

Curtailling Future Recruiting Violations

There are seven methods of curtailing future recruiting violations that may assist universities in protecting its prestige from reputation damaging major recruiting violations of *NCAA Bylaw 13*. First, the recruiting rules should be simplified in a manner that would require fewer changes. Because member institutions may propose alterations to NCAA regulations, the deregulation of NCAA recruiting rules may be accomplished through the proposals of university and conference compliance staffs. Such actions are beginning with Proposal 2009-32 and may lead to further deregulation of overly complex recruiting regulations.

Second, universities should consider hiring at least three full-time athletics compliance coordinators on its campus. The findings of this work indicate that the number of compliance coordinators on an institutional campus is correlated to a

university being sanctioned for major recruiting infractions. Non-BCS institutions may have a greater chance of eliminating all sanctions of major recruiting violations with the hiring of three competent athletics compliance coordinators. BCS conference affiliated universities that seek to curtail future recruiting violations may also greatly decrease the likelihood of reported major recruiting infractions by hiring three competent athletics compliance coordinators.

Third, compliance coordinators should utilize a service-oriented approach, where they seek to assist individuals to accomplish their work while following the NCAA rules, thereby bridging the gap that exists between “winning-at-all costs” and “winning the right way.” A service-oriented approach should allow coaches and staff to feel that the processes of institutional control are supportive rather than preventing them from completing the tasks needed to win championships.

Fourth, universities should seek means to financially reward compliant behavior. Because there is financial incentive to violate NCAA rules (Humphreys & Ruseski, 2006; Padilla & Baumer, 1994), the antithesis must exist to counterbalance the incentives to cheat. Universities should establish a system that compensates coaches and their staff for not exceeding over a certain number of secondary recruiting infractions. This stipulation could be included in the employment contract of a coach or athletic administrator, which may include bonuses or fines for exceeding over a certain number of secondary recruiting infractions or rewarding individuals that self-report secondary infractions to the compliance staff. Hopefully these incentives will create a compliant

culture in the university's institutional system of hiring coaches and athletic administrators.

Other methods that may curtail future recruiting violations focus upon systemic alterations of the NCAA and conference offices. One such suggestion is to alter the NCAA recruiting certification exam for coaches in order to appropriately increase requirements to hold coaches individually responsible for knowing the rules. According to Jubenville and Goss (2008), violations have not decreased since the examination was instituted. While this might indicate that the examination lacks validity, the outcomes of the current examination warrant further research to determine more effective means of instituting compliant behavior. This may include altering the examination to include situational recruiting encounters that coaches will inevitably face, rather than a simple series of multiple choice questions.

A sixth method to prevent recruiting violations is to universalize NCAA rules interpretations in scope and application among member institutions. If one university is allowed to commit secondary infractions because they are unaware of a recent rules interpretation, university coaches and staff that are educated on the interpretation and do not violate the rule may be at a recruiting disadvantage. Thus, institutions seeking to comply with the rules intended to prevent recruiting advantage, may find themselves at a recruiting disadvantage due to the current system of enforcement by the NCAA. Although the NCAA has made rules interpretations widely available to all universities through the LSDBi database, this does not prevent some university coaches and staff from claiming ignorance to the rules as they continue to violate rules and file an ex-post

facto secondary recruiting violation. This practice undermines the enforcement of NCAA rules and furthers the incentives to violate NCAA recruiting rules. Rules interpretations should be inherent in the language of the written NCAA bylaw and deregulated in order to avoid superfluous rules interpretations.

As the final suggestion to curtail future recruiting violations, the NCAA Committee on Infractions should appropriately balance institutional and individual sanctions for recruiting violations. There is a disconnect between the accountability for institutional and individual violations of NCAA recruiting regulations, particularly *Bylaw 13.2*. Both the institution and individuals may be held accountable for rules violations and enforcement should function like the scales of justice, where the violations increase for the individual when they are responsible for the cause of action and lessen for the institution. If the institution does not assert control, the individual that followed institutional policy and procedures should be penalized less and the institution should be highly sanctioned. Individual penalties for NCAA rules violations include show-cause orders for coaches and staff members and loss of playing eligibility for student-athletes and some prospects. The show-cause sanction may be more effectively used by the NCAA enforcement staff, whereby coaches may be more likely to receive a show-cause at the onset of an individual infraction. For example, Kelvin Sampson violated multiple NCAA recruiting regulations at Oklahoma and left for Indiana with minimal implications in changing locations of employment. After another series of major recruiting infractions at Indiana, Sampson was sanctioned with a show-cause and left college basketball for the NBA. Had this sanction occurred at Oklahoma, the future

violations at Indiana might have been avoided. From time to time, prospects involved in recruiting violations at one university may attend another institution without loss of eligibility. This practice places undue burden on NCAA member institutions and allows individuals to skirt responsibility for impermissible actions. Institutional penalties may range from major violations to secondary violations with the added labels of lack of institutional control or failure to monitor. Major violations that lead to a finding of lack of institutional control will generally lead to greater sanctions by the NCAA Committee on Infractions.

One glaring omission of individuals involved in major recruiting infractions is representatives of athletic interest, or boosters. The institution is held responsible for controlling the actions of boosters; however, the individual sanctioning of boosters displays the inability of the NCAA to control booster actions. The penalty of university disassociation is the only means of enforcement to sanction boosters for under-the-table payments to recruits in violation of *Bylaw 13.2*. Disassociation of a booster prevents the individual from donating to the university and receiving the benefits afforded to donors—traveling with the team to away contests, attending booster gatherings, sitting in luxury box seats, upgrading season tickets, and other amenities. This sanction does not prevent a booster from purchasing individual game tickets to university games. It is very likely that a booster could be caught violating *Bylaw 13.2* by giving a recruit \$200,000 and still attend the next home game for the university. Therefore, a means to enforce the recruiting mandates exists for student-athletes, coaches, and institutional staff, but some

recourse must be instituted to hold rogue boosters and prospective student-athletes accountable for reputation damaging recruiting violations.

NCAA Recruiting Violations and the Law

Coaches

Certain legal actions have been taken in the past to remedy the issues of damages resulting from NCAA violations. Both coaches and student-athletes sign contracts that specifically prohibit the violation of NCAA rules. Many coaching contracts have included a provision stating that the violation of recruiting regulations is just cause for termination of employment with no severance pay due to the employee. Just cause refers to the immediate termination of an employment contract due to conduct by an employee that is incompatible with his or her duties resulting in an employment relationship that is too fractured to expect the employer to provide an additional employment opportunity. Although Ohio State basketball coach Jim O'Brien found a friendly court (*O'Brien v. Ohio State University*, 2006), other coaches have not been so fortunate. In *O'Brien v. Ohio State* (2006), the University terminated O'Brien's coaching contract for cause stating that he had violated NCAA recruiting regulations. The court found that his recruiting actions did not justify a just cause termination and ordered the University to pay him approximately \$2.5 million. In other circumstances, employment contracts allow coaches found in violation of the NCAA rules to be terminated for just cause and award coaches a monetary settlement after termination of the contract. This may also include coaches like Kelvin Sampson, who received a \$750,000 contract settlement even though he was sanctioned twice for major violations at Oklahoma and Indiana for a

show-cause order violation of *Bylaw 13.1* with over 500 excessive telephone call violations. Other coaches, like former SUNY Buffalo basketball coach Timothy Cohane, have received a “just cause” termination without financial remuneration for involvement in major recruiting infractions. Stangel (2000) suggests that buyout or remunerations after “just cause” contract terminations should be eliminated by universities and athletic directors to assert institutional control when executing coaching contracts. Thus, legal force may be inserted into the process of establishing a compliant culture with coaches and coaches may be held responsible for damages caused to universities in major NCAA recruiting infractions.

Student-Athletes

Potential student-athlete liability for damages from major NCAA violations stem from the contractual agreements that student-athletes sign in the Student-Athlete Statement. In Parts III and VI of the 2009-2010 NCAA Student-Athlete Statement, incoming student-athletes verify their amateurism status (e.g. did not accept impermissible payment for being an athlete in violation of *Bylaw 13.2* and *Bylaw 12* prior to enrolling at the university) and student-athletes transferring to a different university affirm that they were not involved in a NCAA violation at their previous institution. Furthermore, student-athletes specifically agree to the following terms:

You affirm that you meet the NCAA regulations for student-athletes regarding eligibility, recruitment, financial aid, amateur status and involvement in gambling activities. You affirm that all information provided to the NCAA, the Eligibility Center and the institution’s admissions office is accurate and valid,

including ACT or SAT scores, high school attendance, completion of coursework and high school grades, as well as your amateur status. You affirm that you have reported to the director of athletics or his or her designee of your institution any violations of NCAA regulations involving you and your institution. You affirm that you understand that if you sign this statement falsely or erroneously, you violate NCAA legislation on ethical conduct and you will further jeopardize your eligibility (NCAA, 2009).

Moorman and Hums (1999) suggest that student-athletes may be held liable for damages caused by actions leading to major NCAA violations. However, this action may damage not only institutional reputation as an educational non-profit institution, but also future recruiting opportunities. By acting in a manner that would destroy institutional prestige, holding student-athletes financially liable for the purpose of revenue generation violates the principles espoused in Bowen's Cost Theory of Revenue (1980)—where universities expend all their revenues in order to obtain institutional prestige. Therefore, the most effective sanction for current student-athletes who violate NCAA rules may be loss of eligibility. As such, legal action against current student-athletes may be more damaging than simply rendering them ineligible (Moorman & Hums, 1999).

Boosters and Prospective Student-Athletes

Other alternative legal remedies include a Texas state statute that establishes liability for parties who violate NCAA rules and regulations. This particular state statute was established in response to the major recruiting infraction case at SMU that included the impermissible under-the-table payments to student-athletes and prospective student-

athletes from boosters, including the involvement of former chairman of the SMU Board of Governors and then Texas state governor Bill Clements. Texas Civil Practice and Remedies Code Chapter 131 legally mandates that a person who violates a NCAA rule may be held liable for the damages caused to an institution if:

- 1) the person knew or reasonably should have known that a rule was violated;
- and 2) the violation of the rule is a contributing factor to disciplinary action taken by the NCAA against the institution or a student at the institution (Sec.131.004).

These damages include lost revenues from television, ticket sales, and postseason revenues (Sec.131.006), as well as damages delineated in the legal mandate including attorney's fees and court costs (Sec.131.008).

The statute provides defenses to select individuals and circumstances that coincide with the findings of Moorman and Hums (1999). Employees of the NCAA, conference offices (e.g. Big 12, SEC, Pac 10, etc.), and the university involved in the violation are protected from liability resulting from a major NCAA violation. Also, student-athletes at the institution during the time of the violation are also exempt from liability for damages stemming from a major NCAA violation. Further protections are offered to avoid undue influence by the NCAA and member institutions in seeking damages if the NCAA rule in question was either: a) not a rule at the time of the violation or b) the rule had been substantially changed (Sec. 131.005 (a)). Therefore, the Texas statute does not interfere with ability of the NCAA to enforce its rules and regulations in areas where its influence of sanctions could be sufficiently strong (e.g. loss of eligibility, inability to coach games, institutional fines, public ridicule through the

media, etc.). However, the statute does protect individuals from manipulation of the fluidity of NCAA rules to assert individual liability for rules that were not yet in the regulations at the time when the violation occurred. The Texas statute does isolate two groups of individuals that may do the most harm to an institution because the NCAA is relatively incapable of imposing sanctions upon boosters and some prospects. However, the defenses in the Texas statute will not protect coaches and staff from just cause termination of a contract or the sanction of a show-cause order that may lead to loss of future employment at NCAA institutions. It also does not protect student-athletes from losing eligibility for violating NCAA regulations.

While the statute provides protection for university employees and students, it does not protect either boosters or prospective student athletes who enroll in another university. Although the enforcement of university disassociation may be a sufficient deterrent for some boosters to comply with NCAA recruiting regulations, it may be insufficient for boosters that may be involved in more serious violations of *Bylaw 13.2*. The Texas statute provides additional and serious repercussions for rogue boosters that should have known the NCAA rules and overtly violated them. Institutions are allowed to seek legal recourse for violations by boosters thereby reasserting the seriousness of compliance to the institution in order to seek financial damages and restore institutional prestige. The Texas statute does not interfere with universities' ability to assert institutional control through NCAA sanctions on university and athletics staff, coaches, student-athletes, and boosters. Additionally, the institution may also seek damages from prospective student-athletes that should have known recruiting regulations, yet

knowingly violated NCAA rules leading to a major infraction. While this course of action may not be wise if the university would like the prospect to attend their institution, this could be a wise course of action for an institution that seeks damages from a prospect that attends another institution. It becomes increasingly more important that prospective student-athletes are educated on the recruiting rules that they will be expected to follow and with which they may be held liable if compliance to the rules is willingly skirted.

Systemic Legal Alternatives

There are four possible alternatives to the current system of regulating the actions of rogue boosters violating NCAA rules and damaging the prestige of NCAA member universities. Each of these four alternatives is discussed in the following section, with recommendations for legal remedies to follow.

Federal Regulatory Body

Most nations have adopted a national regulatory body for sports. The nationalization of intercollegiate athletics is a viable option with serious financial and bureaucratic repercussions. Although the NCAA has emerged as the most prominent national sporting body in intercollegiate athletics, the federal government does not manage nor operate the organization. If the federal government became the regulatory body of the NCAA, the organizational structure would become very complex as a national sport organization (Slack & Hinings, 1992). Furthermore, the process of NCAA rules enforcement would also increase in bureaucracy, become highly resource-dependent (Slack & Hinings, 1992) specifically in terms of cost of operations, and would

be dependent upon tax-payer money. By increasing bureaucracy of NCAA rules enforcement, additional concerns regarding the ability to deregulate NCAA recruiting rules would become nearly impossible. Therefore, the NCAA would become highly cost-inefficient in terms of resources and bureaucracy, which could lead to the continued promotion of violating NCAA recruiting regulations.

Federal Statutes

The adoption of federal statutes to regulate the actions of NCAA member institutions, coaches, staff members, student-athletes, and boosters is appealing. Foremost, the enforcement of NCAA rules would shift from its current vernacular of “impermissible” actions to “illegal” actions. The United States government would enforce recruiting regulations and hire compliance officials in order to monitor the actions of the aforementioned institutions and individuals. Enforcement of NCAA rules would certainly have a greater legal impact for violations of *Bylaw 13*. Not all results of the NCAA being a state actor are negative. While increased punishment could lower the frequency of NCAA violations, the NCAA and its universities could also be held accountable for utilizing student fees and tax payers’ dollars for athletics programs. This could increase the awareness of superfluous spending on athletics, such as having teams staying in local hotels the night before home games. Also, the NCAA would be held to a higher standard to protect the constitutional rights of student-athletes established in the 14th Amendment Due Process clause. However there would be major fiscal and legal implications for this alternative to the current system.

The state action doctrine of the NCAA and fiscal burden on United States tax-payers would certainly be questioned. In 1988, the U.S. Supreme Court ruled that the NCAA is not a state actor (*NCAA v. Tarkanian*, 1988), holding that the NCAA is a voluntary association of universities and that any university could withdraw membership if it so desired. Furthermore, the Court held that NCAA rules did not necessarily constitute state law because the,

Source of the rules adopted by the NCAA is not Nevada, but the collective membership, the vast majority of which was located in other States...Moreover, UNLV's decision to adopt the NCAA's rules did not transform them into state rules, and the NCAA into a state actor, since UNLV retained plenary power to withdraw from the NCAA and to establish its own standards (*NCAA v. Tarkanian*, 1988).

If NCAA rules were adopted into federal statutes, then the source of the rules adopted by the NCAA would be the United States and its enforcement would be paid by tax-payers. Therefore, the NCAA would become a state actor subject to providing protections established by the United States Constitution. While some believe that the NCAA being deemed a state actor would open the door for more constitutional protections under the Due Process Clause of the 14th Amendment, the NCAA could be crippled with litigation.

If the NCAA were a state actor, then all of the NCAA bylaws would have to become codified federal law. Otherwise, different states would have varying standards for recruiting regulations and eligibility requirements possibly causing an imbalance of competition among the members of the NCAA due to state leniency. The NCAA could

not enforce penalties, without federal laws requiring it to do so, because there would be no penalty for breaking the rules without ensuing litigation. If an individual accidentally violated an NCAA rule and it was federal law, the punishment would be criminal rather than the current NCAA model of educating the offender and re-paying financial restitution for the infraction. Although this alternative could curtail violations, this could also inflict criminal punishment on individuals that are not intentionally violating regulations. Also, student-athletes could sue the universities and NCAA for deeming them ineligible for violations, transfer rules, or accepting cash inducements from boosters. If the NCAA became a state actor, the NCAA rules would have to be adopted into federal statutory law to establish order in the NCAA member institutions and their stakeholders.

Uniform Act Adopted by States

In the 1980s, athlete agents acted with no regulatory supervision, causing numerous violations of NCAA amateurism rules by student athletes. In response, several states established statutory Athlete Agent Acts which attempted to regulate agent activities, and punish violators of the regulations. Based on the desire of many university administrators and state legislators to protect student athletes, many other states sought to draft and establish athlete agent statutes, resulting in 28 states ultimately drafting and enacting regulatory legislation. Unfortunately, the individual state statutes varied greatly, and other states were reluctant to adopt regulations due to the lack of uniform standards. In response to the need for a uniform statute, in 2000 the National Conference of Commissioners on Uniform State Laws adopted the Uniform Athlete Agents Act. The

purpose of the act was to standardize the athlete agent regulations in one document, and then encourage individual states to enact the regulations as written. The effort was successful with 36 states and the District of Columbia currently having adopted the provisions in the Uniform Act.

A similar effort by the National Conference of Commissioners to enact a uniform act similar to Texas Chapter 131 would enable states to pass a regulatory scheme to provide to universities the same potential legal remedies currently existing in Texas. The major potential financial ramifications might cause boosters and athletes to rethink any temptations to violate NCAA recruiting regulations.

No Changes from Current System

Without changes to the current system, undisclosed recruiting violations will persist. Even more frustrating to universities seeking institutional control over athletics is that rogue boosters that willfully violate NCAA rules may continue to damage institutional prestige, brand the university as an “outlaw” school, and avoid individual punishment for violating NCAA bylaws. Universities may also be forced to pay exorbitant legal fees for litigation or investigation of major infractions that may ensue due to lack of institutional control of boosters. Thus, inaction will prevent the enforcement mechanism of the NCAA from influencing all of its constituencies because boosters will continue to be an unenforceable entity.

Recommendations for Legal Remedies

There is a need to enforce NCAA rules so that individuals are held responsible for actions that may damage the reputation of universities. University and athletic staff

members may lose employment over individual actions that lead to NCAA violations through just cause terminations stipulated in employment contracts. Student-athletes may be held liable for breach of contract in the Student-Athlete Statement, but loss of eligibility may be a sufficient sanction preventing them from participating in NCAA athletics. But, what about prospective student-athletes that violate NCAA rules during recruitment at one university and then attend another? Or, what about boosters that willfully violate NCAA regulations that prohibit under-the-table payments even though a university athletic compliance staff specifically warned that the booster should not be involved in recruiting?

Through the findings of this study, it is recommended that each state that houses a NCAA Division I (FBS) institution should adopt a Uniform Act holding boosters and prospective student-athletes liable for damages deriving from willful violations of NCAA regulations. These statutes do not prevent the NCAA from enforcing its mandates upon university staff and coaches by show-cause order and student-athletes by loss of eligibility, while holding boosters and prospective student-athletes liable for financial damages caused by efforts to willfully violate NCAA mandates. The exemplary state statute known as the Texas Civil Practice and Remedies Code Chapter 131 should serve to shape other states in formulating statutes that hold rogue prospects and boosters liable for damages caused by overt violations of NCAA recruiting regulations, which inevitably damage the prestige of the universities involved. Because it is likely that some states would not adopt such a statute, the enforcement of these statutes depends upon the ability to equitably enforce the rules from state-to-state. Recruiting prospective student-

athletes often involves the recruitment of individuals that may reside out-of-state. As such, it is recommended that state governments establish a Uniform Act that would hold boosters and prospective student-athletes liable for damages universally across all geographic regions of the United States. This legislation would further strengthen the organizational legitimacy of the NCAA as the dominant sport governing body in United States intercollegiate athletics without inciting the effects of state action doctrine.

Furthermore, it would present a theoretical shift from NCAA rules functioning under Meyer and Rowan's (1988) myth of rationality. Thus, the mandates of the NCAA that are not legally binding, but have a legitimate influence, may be shifted to a genuine governing sport body with enforcement capabilities for all of its constituents (e.g. prospects, student-athletes, staff, coaches, and boosters). This shift from myth to law would also shield student-athletes, coaches, and employees of the NCAA and universities from undue financial liability stemming from NCAA recruiting violations. Simultaneously, it would hold boosters and prospects that violate rules at one school and go to another responsible for actions that cause financial and reputational damage to universities. By following the suggestions for institutional control, managerial strategies for athletic departments, suggestions for change in NCAA rules, and increasing enforcement capabilities against rogue boosters and prospects, reputation-damaging violations of NCAA recruiting regulations may be curtailed in the future. Thereby, universities may avoid superfluous legal fees resulting from major recruiting violations and may allocate the revenues back into its pursuit of institutional prestige.

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APPENDIX A

LITERATURE REVIEW

As NCAA institutions seek to implement recruiting policies into their daily operations, the underlying assumptions of legal precedence and social normality becomes a prevalent means of its formal structure (Meyer & Rowan, 1988). Particularly in educational formal structures, layers of bureaucracy are established in order to create an environment of power and authority that are highly institutionalized. Meyer and Rowan (1988) found that these formal structures lead to ideas and concepts being rationalized as legitimate structures and adopted as an integral part of the institution, or institutionalized. Rationalization and institutionalization lead to the two-part “myth of rationality” that permeates from formal organizational structures. These myths are ideas or concepts that are rationalized to be truth, when in reality they are constructed by two notable properties. First, they identify social purposes as technical in nature and are rationalized by enforcing these purposes through mandate (Meyer & Rowan, 1988). Secondly, these mandates become highly institutionalized, or socially accepted in an institution to the point where there is a belief that they are legal, and thus goes beyond the power of individuals within an organization (Meyer & Rowan, 1988). In order to comprehend the “myth of rationality” from which the NCAA operates, it is important to understand the types of policies utilized, the institutional context of athletics housed within higher education institutions, and the values of recruiting that have been legitimized in higher education administration.

According to McDonnell and Elmore (1987), there are four types of alternative policy instruments, which are the mechanisms that transform substantive policy goals into practical application, they are: mandates, inducements, capacity-building, and system- changing. These alternative policy instruments attempt to ensure that behavior coincides with the intended outcomes of the institution. First, mandates “are rules governing the action of individuals and agencies” (McDonnell & Elmore, 1987, p. 134). NCAA rules are forms of mandate policy instruments, where the expected outcome is that all individuals within an institution will enact behavior that is compliant with the established rules of the institution (McDonnell & Elmore, 1987). Second, inducements are the transfer of “money to individuals or agencies in return for the production of goods or services” (McDonnell & Elmore, 1987, p. 136). The expected effect of inducements is short-term returns through production (McDonnell & Elmore, 1987), such as an incentive-laden coaching contract for winning conference championships. Third, capacity-building policy instruments are “the transfer of money to individuals or agencies for the purpose of investments in future benefits” (McDonnell & Elmore, 1987). Capacity-building policy presumes that without the immediate investment of resources, future benefits will not be realized in the long-term (McDonnell & Elmore, 1987). Fourth, system-changing policies shift official authority among individuals within institutions. The intended outcome of system-changing instruments is to alter an ineffective system through changing reporting lines, terminating the employment of an individual, or even altering the distribution of funds other than authority (McDonnell &

Elmore, 1987). Mandated educational policy is critical to the enforcement of NCAA recruiting rules.

NCAA mandated educational policy has followed the “myth of rationality” in its scope and application. McDonnell & Elmore (1987) found that mandates function under the assumptions that a) acquiescent actions are expected to be performed by all individuals, regardless of power within the institution and b) that compliant actions would not occur without the mandated policy in place (McDonnell & Elmore, 1987). When violations of NCAA mandates are committed by individuals or groups within an institution, severe repercussions may occur. In this regard, mandates use coercion through enforcement or threat of sanctions by initiators of the policy (McDonnell & Elmore, 1987). Mandates seldom result in uniform compliance because compliance usually results in high enforcement costs (McDonnell & Elmore, 1987). It could be expensive to hire monitoring staff or NCAA compliance staff on the campus of the institution that uncovers violations of the mandates. Therefore, the individuals and institutions responsible to follow these mandates will assess the opportunity cost of compliance. Mandate policy differs greatly from other policies because mandates: a) use coercion instead of money to affect behaviors, b) outcome is compliance, not production, c) assume that no one is exempt from complying with the rules, and d) positive outcomes can result from resistance or avoidance of complying with the rules (McDonnell & Elmore, 1987). Such is the case with institutional compliance with NCAA mandates.

The Institutional Context

The NCAA and its member conferences have established rules and bylaws to govern the actions of its member institutions. Because these bylaws are not necessarily legally binding, according to the *NCAA v. Tarkanian* (1988) holding that member institutions of the NCAA entered into a voluntary agreement to abide by these bylaws. Therefore, the NCAA bylaws are mandate policy to its member institutions that are expected to abide by its requirements at the behest of sanctions. Within this mandate on the Division I (FBS) level, the NCAA has established minimum standards of action and behavior in regards to recruiting, amateurism, financial aid, academic eligibility standards, playing and practice seasons, requirements to retain Division I status, the actions of staff, coaches, and student-athletes inside or out of competition. The overarching standard of all these NCAA rules is known as the principle of institutional control. The NCAA defines institutional control as,

The control and responsibility for the conduct of intercollegiate athletics...exercised by the institution itself and by the conference(s), if any, of which it is a member. Administrative control or faculty control, or a combination of the two, shall constitute institutional control (*NCAA Bylaw 6.01.1*).

If a university does not require its athletic department to follow the rules of the NCAA, it is subject to termination or suspension of its NCAA membership status for lack of institutional control pursuant to *Bylaw 3.01.3*. The purpose of these established bylaws is to create a balance of competition among NCAA member institutions (Depken & Wilson, 2004) and, particularly, to not give any team an undue recruiting advantage over

another. Simultaneously, the NCAA prohibits inducement policy instruments in recruiting or giving money and/or gifts to a prospect or prospect's family member (*NCAA Bylaw 13.2.1*). This restriction of economic inputs has led many researchers to believe that the NCAA functions as a classic economic cartel (Fleisher, Goff, & Tollison, 1992; Kahn, 2006; Grant, Leady, Zygmunt, 2008; Dumond, et al., 2008).

The characteristics of a cartel explain how the NCAA enforcement of recruiting mandates function and why NCAA violations might occur. A cartel is an economic collusion where firms in the marketplace cooperate to control production and sales in order to maximize profits (Kahn, 2006; Grant, et al. 2008). The three challenges presented to an economic collusion are: a) agreement on the appropriate actions of the group, b) preventing cheating, and c) controlling entry into the group (Grant et al., 2008). All three of these characteristics are mandated policies that have become institutionalized by member institutions of the NCAA. The agreement of appropriate actions leads to established rules that are essential to entry and retaining membership in the cartel. In order to prevent cheating, sanctions are placed upon institutions or individuals within the cartel for violating the rules. These sanctions can be restrictions on production, actions, monetary fines, and the stigma that the rules violator cheats. When the expected cost associated with the sanction from a violation of the cartel agreement is less than the expected benefits, cartel members will have incentive to follow the rules (DeSchriver & Stotlar, 1996). Therefore, the cartel requires sanctions to enforce mandates. The third challenge of a cartel is controlling entry into the group. This can be the restriction of human capital resource inputs or simply controlling which

institutions are permitted entry into the cartel. Grant et al. (2008) found that the market of football and men's basketball in NCAA Division I (FBS) athletics constitute a cartel, but the non-revenue sport markets do not.

Researchers have distinguished an economic difference between revenue sports and non-revenue sports, but the NCAA continues to report violations by the name of the university that often involves multiple sports that are both revenue and non-revenue. NCAA Division I (FBS) men's football and basketball account for over 70% of all NCAA Division I (FBS) athletics departments' revenue (Mahony Fink, & Pastore, 1999; Humphreys & Ruseski, 2006) and are known as revenue sports. However, the NCAA named men's basketball, women's gymnastics, and men's gymnastics in a major recruiting violations report in 2006. Although institutions' athletic departments must utilize the revenues generated by men's basketball and football to pay for the other sports that do not generate revenue such revenue, the NCAA mandates require complete institutional control regardless of economic status. Therefore, if the NCAA were a true economic cartel seeking to restrict competition and maximize revenue (Kahn, 2006), why wouldn't the NCAA eliminate non-revenue sports from the business model? Upon asking this question, many legal issues of gender equity, Title IX, and other issues demonstrate that there are other factors that influence the institutional context of intercollegiate athletics on the Division I level besides cartel behavior. The NCAA may certainly have tendencies of a cartel (Fleisher, Goff, & Tollison, 1992; Kahn, 2006; Grant, et al., 2008), but the institutional atmosphere of intercollegiate athletics being housed within in universities directly influences the institutional context of the NCAA.

The Pursuit of Prestige in Higher Education

When examining NCAA rules compliance, the university environment presents perspective that requires supplementary theoretical frameworks to the NCAA acting an economic cartel. Comparable to the claims that the NCAA acts like a cartel, higher education has also been placed in this institutional context. Researchers have found that higher education acts as a cartel through collusions found in accreditation standards (Koerner, 1994), law school admissions (Cohen, 2008), academic instruction and practices of students, race-based admissions standards (Rauch, 2003), and tuition price-fixing (Leslie & Brinkman, 1989). The commonality of the NCAA and the institutions of higher education in which they are housed is cartel behavior. However, higher education is well-regulated by legal guidelines to prevent sex discrimination in the administration of educational programs not only through employment law (e.g. Title VII), but also educational amendments (e.g. Title IX) that directly impact the business practices and pursuits of intercollegiate athletics.

Bowen (1980) found that there are certain aspects of higher education that further distance itself from traditional economic practices. These principles of higher education business practice directly impact the goals of higher education institutions and their athletics departments and are known as Bowen's Cost Theory of Revenue. These "laws of higher education costs" (Bowen, 1980, p.4) include the dominant goals of educational excellence, prestige, and influence where there is no limit to the amount of money an institution would spend in the pursuit of these goals (Bowen, 1980). Also, each institution of higher education raises all the money it can in order to spend all it raises

with the cumulative effect being increased fiscal inefficiency (Bowen, 1980). While business cartels seek to maximize profits (Fleisher et al., 1992; Kahn, 2006; Grant et al., 2008), institutions of higher education seek to obtain prestige through increasing revenues in order to spend it all (Bowen, 1980). NCAA member institutions are fixed in a divergent path between cartel behaviors of maximizing profits and pursuing institutional prestige of winning championships by spending all of the money that it raises. Therefore, a tenuous relationship between intercollegiate athletics' pursuit of championships and the educational institution's pursuit of academic prestige collide on each campus of NCAA member institutions. The NCAA utilizes mandate policy instruments to reconcile this tenuous relationship, but the unintended weaknesses of mandate policy (e.g. incentives to violating recruiting rules) can jeopardize the pursuit of prestige of the entire institution. Thus, NCAA-affiliated universities accept cartel behavior in athletics while asserting Bowen's Cost Theory of Revenue to achieve heightened institutional prestige.

Ethical Failures That Can Jeopardize Institutional Prestige

When ethical violations occur on a campus, it can be a detriment to the overall level of prestige that a university seeks to enhance. Kelley and Chang (2007) created a typology of ethical failures that occur in the university environment. These ethical failures can vary in severity from mild to severe and include individual/academic related, sports related, departmental, and organizational failures. First, individual/ academically related ethical failures consist of falsifying research, curriculum vitae, breaching contracts, sexual harassment, improper relationships with students, biased grading, etc.

(Kelley & Chang, 2007). These ethical lapses are committed by individuals within the organization and can have an effect on the ethical lapses that occur in the university. The second type of ethical failures are departmental, some of which include ignoring individual ethical failures, not following professional standards for fundraising or compliance, over-billing Medicare, admitting students based upon endowments of parents instead of qualifications, etc. (Kelley & Chang, 2007). These ethical lapses are directly addressed by mandated policies and are more visible to the university due to the breadth of failures that occur, whereas some individual ethical failures could easily go unnoticed. Third, organizational ethical lapses are some of the most visible because they involve issues such as gender discrimination, racial discrimination, lack of institutional control in athletics, permitting sexual harassment, etc. (Kelley & Chang, 2007). Typically the results of these ethical lapses are lawsuits utilizing mandate policy instruments that explicitly prohibit organizational ethical failures. For instance, a student could sue a university for sexual harassment under Title IX of the Education Amendments of 1972. While the principle of institutional control is not legally binding, the stigma attached to the violations has become taboo to the point of institutionalizing the notion that it is a legal principle. Thus, NCAA related ethical breaches are considered severe by Kelley and Chang (2007), which confirms that the value of institutional control has become institutionalized and follows the “myth of rationality.”

Although the types of violations differ in academia compared to athletics, research suggests that sports-related university ethical lapses have an overall negative effect on the university (Kelly & Chang, 2007; Cullen, Byrne, & Holman, 1990; Gerdy,

2002). These ethical failures included academic fraud, recruiting violations, impermissible benefits, use of illicit drugs, gambling, etc. (Kelley & Chang, 2007). Sports related ethical failures may affect the identity and reputation of students, faculty, the organization, and the community (Kelley & Chang, 2007; Duderstadt, 2003). If a university is heavily criticized in the media for breaking NCAA rules, the reputation of the entire institution could be questioned by outside parties (Duderstadt, 2003). While Kelley and Chang's (2007) typology casts sports related ethical lapses in an auxiliary relationship to the university, violations of NCAA rules can greatly hinder the pursuit of institutional prestige. When a violation of NCAA rules occurs on the individual level and is discovered by the NCAA, severe repercussions from lack of institutional control on the department and organizational levels can also occur (*NCAA Bylaw 6.01.1 & 6.4.2*). With the knowledge that a university is willing to spend unlimited revenues on building and sustaining a positive reputation (Bowen, 1980), recognition of and strategies used to prevent sports related ethical violations on the university campus is paramount.

NCAA Rules Violations and Enforcement

Merging the aspirations and values of intercollegiate athletics and academics on a university campus is legitimized through the mandates of the NCAA (Helman, 1989; Heck & Takahashi, 2006). Thus, ethical behavior regarding NCAA mandates in the higher education environment is context specific (Begley & Stefkovich, 2007). The NCAA has defined ethical actions in *NCAA Bylaw 10.01.1*. The purpose of this ethical mandate is "so that intercollegiate athletics as a whole, their institutions and they, as

individuals, shall represent the honor and dignity of fair play and the generally recognized high standards associated with wholesome competitive sports.” (*NCAA Bylaw 10.01.1*). Furthermore, the NCAA stipulates specific actions that are deemed unethical conduct pursuant to *NCAA Bylaw 10.1*. Of these actions, the NCAA has adopted rules to affect the use of financial aid, amateurism status, recruiting practices, eligibility and academic standards, awards and benefits, and conducts of student-athletes and athletics personnel. The purpose of recruiting mandates by the NCAA is to “balance the interests of prospective student-athletes, their educational institutions and NCAA member institutions” (*NCAA Bylaw 2.11*). From an institutional perspective, the NCAA mandates are designed to “promote equity among member institutions” in recruiting (*NCAA Bylaw 2.11*). From an individual level, the NCAA seeks to “shield [prospective student-athletes] from undue pressures that may interfere with their scholastic or athletics interests” (*NCAA Bylaw 2.11*). Thus, the NCAA has addressed the importance of combining academic interests and athletic competition in its mandates. But, the violation of these mandates can lead to sanctions against individuals and institutions categorized as a major infraction or secondary, depending upon the severity of the violations.

There are two levels of violations that distinguish the severity of infraction in Division I (FBS) athletics, according to *NCAA Bylaw 19.02.2*. A violation that is “isolated, or inadvertent in nature [that] provides, or is intended to provide only a minimal recruiting advantage” is a secondary violation (*NCAA Bylaw 19.02.2.1*). Secondary violations are further divided into a Level I secondary violation, that affects

the eligibility of a student-athlete, and Level II secondary violations that do not affect eligibility. As such, Level I secondary violations are more severe than Level II and are subject to sanctions including fines up to \$5,000, vacating game victories, suspensions of players and coaches, loss of eligibility, etc. (*NCAA Bylaw 19.5.1*). When a combination of multiple secondary violations occurs, it can become a major violation. A major violation is any violation of the rules that is not a secondary violation and provides an extensive recruiting or competitive advantage to the violator of the rules (*NCAA Bylaw 19.02.2.2*). Major infractions can lead to loss of scholarships, reduction of television revenues, fines, banishment from postseason competition, vacating championships, termination of employment by an institution, negative publicity in the media, and reduced university prestige (*NCAA Bylaw 19.5.2.1* ; Kelly & Chang, 2007; Cullen, Byrne, & Holman, 1990; Gerdy, 2002). Further research has investigated the trends of NCAA violations.

Major infractions of NCAA legislation are most prevalent in Division I (FBS, formerly Division I-A), as opposed to Football Championship Subdivision (FCS, formerly Division I-AA), Divisions II, and III (Mahony et al., 1999). The Knight Commission (2001) found that more than 50% of Division I programs were placed on sanctions for major violations of NCAA mandates. Furthermore, both the Knight Commission (2001) and Mahony et al. (1999) found that NCAA rules violations have become normative behavior. Clark and Batista (2009a) found that the frequency of secondary infractions increased drastically from 2002-2007 and that universities that are members of a conference where a team won a national championship in NCAA Division

I (FBS) football that year were most likely to commit a major infraction. Specifically, universities that are currently members of the Big Ten, Southeastern Conference (SEC), and Big 12 committed the most major violations since 1973 (Clark & Batista, 2009a).

As one of the responses to violations of mandates, the NCAA has sanctioned rules violators. By increasing the severity of the NCAA enforcement penalties, Hagerty and Sims (1978) found that the number of overall violations decreases. Depken and Wilson (2004) confirmed this finding and added that NCAA sanctions serve as a quasi-effective deterrent to rules violations. The Division I universities most likely to receive these sanctions are: a) repeat rules violators, b) dependent on other conference universities for resources, c) less selective in the admissions process of student-athletes, and d) are from the geographical regions of the South, Midwest, and Southwest (Baxter et al., 1996). Furthermore, Fleisher et al. (1988) found that increased variance of victories from one season to the next is evidence that there could be an investigation by the NCAA of rules violations. Clearly, the existence of NCAA mandates and enforcement attests that the NCAA does not condone unethical conduct and rules violations. Nevertheless, some researchers have found benefits to committing major violations.

Padilla and Baumer (1994) found that there were minimal adverse economic effects of sanctions by the NCAA in the short run on rules violators and no major economic change from penalties in the long run. Additionally, the penalty of reduced scholarships skews the competitive balance of college football toward perennial winners by reducing the inputs of mid-level teams in recruiting (Sutter & Winkler, 2003). Even

so, the greatest economic impact on the revenue sports of football and men's basketball was not NCAA sanctions, but was winning games (Padilla & Baumer, 1994; Humphreys & Ruseski, 2006). Because victories increase ticket revenue, postseason or bowl revenues, sponsorships, application rates to the university, and may influence the overall prestige of the university, violating NCAA mandates can actually lead to increased revenues (Humphreys & Ruseski, 2006; Padilla & Baumer, 1994). Moreover, Fleisher et al. (1988) found that the enforcement activities of the NCAA have mostly benefitted traditional football universities that are perennial victors because they have a competitive advantage to recruit the most talented athletes. Thereby, "non-powerhouse" universities have incentive to break the mandates of the NCAA cartel to attain institutional prestige by winning football games (Fleisher et al., 1988). This financial incentive to violate NCAA rules presents a major ethical dilemma of whether or not there are benefits to rules compliance. Yet, these findings assert that financial benefits are the goal of the institution, when Bowen's Cost Theory of Revenue would assert that prestige is more than financial solvency.

Recruiting

While the cartel behavior focuses upon the economic benefits, Bowen (1980) refocuses the analysis that the goal of a university is prestige. Brewer, Gates, and Goldman (2002) stated that university prestige is based upon an institution's choices of operation within the specific market activities of student quality, research, and sports. Athletics prestige at a university is built over a long period of time by victories of teams, the ability to recruit and retain high quality athletes and institutional staff members, and

the perception of running a “clean program” that is compliant with NCAA rules (Heck & Takahashi, 2006; Brewer et al., 2002; Duderstadt, 2003). As such, prestigious university athletic departments have student-athletes that participate in professional football after the completion of their intercollegiate athletics career. Thus, the popular quote from former West Virginia assistant coach Billy Hahn,

[Recruiting] is the lifeblood of the program. It's not the X's and O's. It's the Jimmys and Joes (O'Neil, 2008).

This popular belief of the importance of recruiting was affirmed, as recruiting is one of the most statistically significant factors in the success of an athletic program (Heck & Takahashi, 2006; Humphreys and Ruseski, 2006; Cunningham & Dixon, 2003). Langlett (2003) found that football programs that are perennial winners are able to attract higher quality recruits, thereby, increasing the future quality of team performance.

There are many factors that influence recruiting decision making of prospective student-athletes prior to attending and participating in athletics at a particular university. Some mitigating factors of college football recruiting choice of prospects are on-field performance, conference affiliation, facilities, playing time, and the geographic distance of the university from the prospect's home (DuMond, Lynch, & Platania, 2008). The Bowl Championship Series (BCS) structure of six conferences, ACC, Big East, Big Ten, Big 12, Pac 10, and SEC is a major influence in a recruit's decision making (Dumond, et al., 2008), as the media makes teams highly visible from these six conferences. While prospects weigh the aforementioned factors into their recruiting decision, coaches actively pursue prospects in order to discover and obtain the highest quality players that

suit the needs of the athletic program. Simultaneously, athletic directors and university administration utilize capacity-building policies by fundraising to update, renovate, and build state-of-the-art facilities to attract prospects instead of financially compensating athletes more (Brown, 2001). Brown (2001) found that an NFL caliber recruit could bring a marginal profit of approximately \$500,000 to a university. The influencing factors of coaches, people affiliated with a university, and economics are highly monitored and regulated by NCAA legislation contained in Article 13 of the NCAA Bylaws.

Recruiting Violations

Recruiting violations are the most prevalent major violations in Division I (FBS) athletic departments. Since 1987, 73.53% of all major violations that occurred in NCAA Division I (FBS) athletics programs were related to the recruitment of prospective student-athletes stipulated in Article 13 of NCAA legislation (Clark & Batista, 2009a). Also, recruiting violations account for 47.03% of all secondary violations (Clark & Batista, 2009a), conjecturing that recruiting violations are considered much more serious types of violations than most other NCAA mandates. Factors that influence major violations of Article 13 are conference affiliation, geographical region, gender, and type of sport. Clark and Batista (2009b) found that BCS conference universities committed significantly higher major recruiting violations than Non-BCS affiliated conference schools in Division I (FBS). Furthermore, the SEC, Big Ten, and Big 12 respectively committed the most major recruiting violations from 1987-2007 (Clark & Batista, 2009a). The South and Midwest accounted for over 66% of all major recruiting

violations (Clark & Batista, 2009a), men's sports committed 80% of all major recruiting violations (Clark & Batista, 2009b), and football and men's basketball committed approximately 60% of all major recruiting violations from 1987-2007 (Clark & Batista, 2009b). These recruiting violations can occur because of the lack of knowledge, amoral decision making (Tenbrunsel & Smith-Crowe, 2008) or blatant disregard of NCAA rules by individuals or institutions known as moral decision making that leads to an unethical decision (Tenbrunsel & Smith-Crowe, 2008).

While researchers have analyzed the reported recruiting violations that have occurred in the NCAA from 1987 to the present, there has been minimal research as to the extent recruiting violations that have occurred without the knowledge of the NCAA. Sack (1991) found that the underground economy of paying student-athletes and recruits "under the table" is extensive in NCAA football. Thus, on the institutional level, Sack (1991) found that major football conferences and universities located in the South and Southwest were more likely to commit covert violations of impermissible benefits and inducements to football. Also, success by increased victories of football teams paralleled the increased inducements given to prospects and student-athletes (Sack, 1991). On the individual level, Sack (1991) found that African-American football players and football players from a low socio-economic status were more likely to accept impermissible inducements and extra benefits. This covert behavior of student-athletes and boosters signals a shift in power attributable to a system-changing alternative policy through the use of an inducement alternative policy. However, this study has considerable limitations regarding its generalizability to the entire population of NCAA Division I (FBS) student-

athletes. Sack sampled former football student-athletes that eventually played in the National Football League (NFL). Only 3.44% of student-athletes that play college football go on to play in the NFL (NFL Players Association, 2007), and thus only explaining less than 1% of the total NCAA Division I (FBS) student-athlete population. Therefore, the extent to which unreported recruiting violations (including inducements) are occurring in NCAA Division I (FBS) athletics without the knowledge of the NCAA is relatively unknown.

Another issue of concern is whether or not policy implementation by the NCAA and its member universities can effectively alter recruiting actions of coaches, athletic administration, and university administration. McCabe, Trevino, and Butterfield (2001) found that cheating and dishonesty in universities can be best addressed through institutional mandates. These policies should: a) clearly communicate expectations of compliance, b) be supportive and respectful when dealing with personnel and athletes, c) consistent in application, d) focus on the experience not the outcomes of college sports, d) encourage affective commitment or character, e) provide harsh deterrents for cheating, f) remove opportunities to cheat, g) make educational opportunities interesting, and h) replace incompetent personnel from the staff (McCabe et al., 2001). Specific to recruiting, Heck & Takahashi (2006) analyzed the impact of academic requirements for initial eligibility of recruits, called Proposition 48, on recruiting strategies of coaches and athletic administrators. Proposition 48 was a mandated policy attempting to increase the academic standards of prospects entering NCAA athletics programs (Heck & Takahashi, 2006). These standards were further stipulated in the NCAA Articles 13 and 14

regarding recruiting and eligibility standards. Heck and Takahashi (2006) found that these mandated policy instruments did alter recruiting strategies of coaches in order to find student-athletes with higher academic standards. Therefore, policy mandates can effectively alter disreputable recruiting actions of coaches, but do these alterations lead to system-changing behaviors of clandestine inducement policy under-the-table?

Conclusion

While the NCAA acts as a cartel, it also conforms to the university spending habits and goals of institutional prestige in Bowen's Cost Theory of Revenue. Therein, the goal of the university is to build, establish, and maintain university prestige through a winning athletic program that is compliant with the mandates of NCAA legislation. From these goals, athletic compliance becomes an integral part of establishing university prestige in order to not be considered unethical by the NCAA and media. The social pressures from the media and boosters to win coupled with the pressure to be compliant with NCAA rules poses a major ethical dilemma, as one of the benefits of rules violations is increased winning percentage (Humphreys & Ruseski, 2006) and the incentive of rules compliance is to avoid sanctions. Furthermore, recruiting violations are the most prevalent form of major violations that can hinder institutional prestige (Clark & Batista, 2009a). They are manifested on the institutional level by conference affiliation, geographical region, gender, and type of sport.

By addressing a multilevel theoretical approach to institutional and individual influences, universities can establish policies in order to address this recruiting ethical dilemma. Multilevel theoretical analysis specifies the relationships that exist among

various levels of an organization. One of these multiple levels can come from a top-down perspective, where the policies and procedures of an organization can shape the actions of individuals within the organization (Kanter, 1977). Another level can come from the bottom-up perspective, where individuals within the organization can influence the policies and procedures of the organization (Kanter, 1977). Klein and Kozlowski (2000) found that, in order to capture the entire scope of the organization, both the top-down and bottom-up processes should be presented. This study utilizes the multilevel theoretical approach from the NCAA level, university administration, athletic administration, mezzo-level athletic compliance administration, and lower levels of coaches and boosters. By instituting policies through the ethic of the profession, universities can do what is best for the student-athlete and the university (Begley & Stefkovich, 2007) and establish policies that can positively affect recruiting behaviors (Heck & Takahashi, 2006) to curtail future recruiting violations.

VITA

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